

**CITY OF EUREKA  
CITY COUNCIL/  
REDEVELOPMENT AGENCY  
AGENDA**

Marian Brady 1<sup>st</sup> Ward  
Linda Atkins 2<sup>nd</sup> Ward  
Mike Newman 3<sup>rd</sup> Ward  
Melinda Ciarabellini 4<sup>th</sup> Ward  
Lance Madsen 5<sup>th</sup> Ward



Frank J. Jäger, Mayor

**REGULAR MEETING  
TUESDAY, MAY 17, 2011  
CLOSED SESSION 5:00 P.M.  
REGULAR SESSION 6:00 P.M.  
COUNCIL CHAMBER  
531 K STREET  
EUREKA, CA 95501**

David Tyson, City Manager  
Pam Powell, City Clerk  
William Bragg, Interim City Attorney

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**CLOSED SESSION**

*If closed session items cannot be completed by 5:55 P.M., they will be continued at the conclusion of the regular agenda, provided there is time. If time does not allow then those closed session items will be continued to the next regular meeting.*

**A. PUBLIC COMMENT PERIOD**

(Limited to 3 minutes each speaker on closed session agenda items only)

**B. Conference with labor negotiators**

Agency designated representatives: Gary M. Bird for City of Eureka  
Employee organization: Eureka Firefighters' Local #652 (EFL), Eureka Fire Officers Local (EFOL), Eureka Police Officer's Association (EPOA), Eureka City Employees' Association (ECEA), and Unrepresented management, mid-management, and confidential employees.

*Pursuant to California Government Code Section 54957.6*

**C. Conference with legal counsel-anticipated litigation**

Significant exposure to litigation: one case.

*Pursuant to California Government Code Section 54956.9(b)*

**D. Conference with real property negotiators - Property: APN 001-054-45 and 001-054-13**

Agency negotiator: David W. Tyson for the City of Eureka

Negotiating Parties: Eureka Waterfront Partners

Under negotiation: price, terms, and conditions

*Pursuant to California Government Code Section 54956.8*

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**REGULAR SESSION – 6:00 P.M.**

**ROLL CALL**

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**REPORT OUT OF CLOSED SESSION**

**MAYOR'S ANNOUNCEMENTS**

Presentation of Proclamations: Romano Gabriel Month – June 2011

**COUNCIL REPORTS / CITY-RELATED TRAVEL REPORTS**

**BOARD/COMMISSION REPORTS**

Keep Eureka Beautiful

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**PUBLIC HEARINGS**

*Public Hearings are scheduled for a time certain of 6:00 P.M. unless noticed otherwise, or as soon thereafter as possible.*

**1. Public Hearing – Mycellia Sands, Business Loan Request**

- Recommendation:
1. Hold a public hearing; and
  2. Adopt a Resolution of the Redevelopment Agency adopting the Findings of Facts required to appropriate \$80,000 for business capital improvement from Redevelopment Agency Funds; and
  3. Adopt a Resolution of the City Council funding the remaining \$53,650 working capital requirement from Community Development Block Grant (CDBG) Revolving Loan Funds; and
  4. Authorize a loan totaling \$133,650 to Theodore J. Walker, Jr., dba Mycelia Sands, for a term of 10 years with a 3% interest rate, with payments deferred for two years.  
(Redevelopment)

**2. Public Hearing – CDBG Planning and Technical Assistance Grant Application to assist "Humboldt Bay Housing & Development Corporation, a Non-Profit"**

- Recommendation:
1. Hold a public hearing; and
  2. Adopt Resolution of the City Council approving an application on behalf of Humboldt Bay Housing Development Corporation (HBHDC), for a Community Development Block Grant (CDBG) Planning & Technical Application (PTA) Grant

in the amount of \$35,000 for a Feasibility Study of an Acquisition and Rehabilitation Program of Vacant Foreclosed Single Family Homes suitable for placement into an Exiting First Time Homebuyer Program or a Community Land Trust First Time Homebuyer Program; and  
3. Authorize the City Manager, Director of Redevelopment & Housing, and Finance Director to sign fund requests and other required reporting forms.  
(Redevelopment)

3. Public Hearing – Redevelopment Agency Disposition and Development Agreement with Open Door Community Health Centers (AP #002-191-031)

Recommendation: 1. Hold a public hearing; and  
2. Adopt Resolutions of the Redevelopment Agency and City Council approving a Disposition and Development Agreement with Open Door Community Health Centers for the purchase of Assessor Parcel No. # 002-191-031; and  
3. Authorize execution of a Disposition and Development Agreement with Open Door Community Health Centers.  
(Redevelopment)

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**PUBLIC COMMENT PERIOD**

*This is the time for members of the public who wish to be heard on matters that do not appear on the Agenda. Pursuant to City Council Resolution No. 2011-22, City Council policy is to limit each speaker to three (3) minutes. Such time allotment or portion thereof shall not be transferred to other speakers. The public will be allowed to speak concurrently with the calling of an agenda item following the staff presentation of that item.*

*Pursuant to the Brown Act, the City Council may not take action on an item that does not appear on the Agenda.*

4. Is there any person in the audience who wishes to address the Council at this time?

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**CONSENT CALENDAR**

**Notice to the Public:** *All matters listed under this category are considered to be routine by the City Council and will be enacted by one motion. Pursuant to City Council Resolution 2011-22, if a member of the public would like an item on the Consent Calendar pulled and discussed separately, the request shall be made to a Councilmember prior to the meeting. Unless a specific request is made by a Councilmember, the Consent Calendar will not be read. There will be no separate discussion of these items.*

5. Council meeting minutes.  
Recommendation: Approve the regular Council/Redevelopment Agency Board meeting minutes of April 19, 2011 as submitted.  
(City Clerk)
6. Street Overlay 2011 Bid No. 2011-13  
Recommendation: Appropriate \$685,000 from Gas Tax and \$115,000 from Caltrans Non-Freeway Funds for the Street Overlay 2011 Project.  
(City Engineer)
7. Class II Bike Lane on Harris Street from "I" Street to Harrison Avenue  
Recommendation: Revise existing 2004 Regional Bicycle Transportation Plan to upgrade proposed bike route on Harris Street, from "I" Street to Harrison Avenue, from a Class III bike route to Class II bike lane.  
(City Engineer)
8. Mayor's appointments to boards, commissions and committees.  
Recommendation: Approve the Mayor's appointment of Greg Williston to the Open Space, Parks and Recreation Commission with the term expiration date of 01-01-2014.  
(Mayor)

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## **ORDINANCES/RESOLUTIONS**

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## **REPORTS/ACTION ITEMS**

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9. Letter Commenting on the Pacific Coast Salmon Plan Amendment 16 Draft Environmental Assessment  
Recommendation: 1. Receive report from Jim Yarnall, Humboldt Area Saltwater Anglers (HASA)  
2. Authorize the Mayor to sign the attached letter to the Pacific Fisheries Management Council.  
(Community Development)
- 10 Humboldt Waste Management Authority Recycling Memorandum of Understanding (MOU)  
Recommendation: 1. Adopt the attached MOU giving flow control of the City's recyclable to Humboldt Waste Management Authority (HWMA) for the five year term of the Authority's contract with Solid Waste of Willits.

2. If Humboldt Waste Management Authority does not approve the contract with Solid Waste of Willits, direct staff to pursue a contract between the City and Solid Waste of Willits for processing the City's recyclables.  
(Public Works)

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#### **CITY MANAGER/EXECUTIVE DIRECTOR'S REPORTS**

Public Safety Report-Eureka Police Department

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#### **ADJOURNMENT**

*If open session items cannot be completed by 9:30 P.M., the meeting may be adjourned to the next regular meeting or Council may vote to extend the meeting.*

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## NOTICES

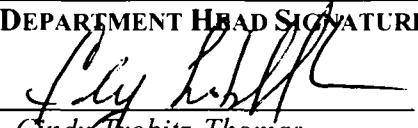
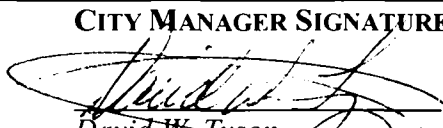
- The City Council agenda and supporting documents are available for public review on the Friday afternoon prior to the Tuesday meeting at the City Clerk's Office, the Eureka Humboldt County Library and on-line at [www.ci.eureka.ca.gov](http://www.ci.eureka.ca.gov).
- The numerical order of items on this agenda is for convenience of reference. Items may be taken out of order upon the request and consensus of the Mayor and Council.
- Any writing that is a public record not exempt from public disclosure and relating to an agenda item for open session of the City Council is available for public inspection at the Office of the City Clerk, 531 K Street, Room 207, Eureka, CA 95501.
- The meeting rooms are ADA accessible. Accommodations and access to City meetings for people with special needs must be requested of the City Clerk at 441-4175 72 hours in advance of the meeting. This agenda and other materials are available in alternate formats upon request.
- All persons in attendance at public meetings are requested to observe the following rules of civil debate:
  1. We may disagree, but we will be respectful of one another.
  2. All comments will be directed to the issue at hand.
  3. Personal attacks are unacceptable.

Applauding or other displays of approval/disapproval are discouraged.

- Regular City Council/Redevelopment Agency meetings are broadcast live by Humboldt Access on Cable Channel 10. Council meetings can also be viewed on line at [www.accesshumboldt.net](http://www.accesshumboldt.net) – Search archives “Eureka City Council Meetings”.
- To minimize distractions, please be sure all personal communication devices are turned off or on silent mode.

Questions? Please e-mail [ppowell@ci.eureka.ca.gov](mailto:ppowell@ci.eureka.ca.gov) or contact the City Clerk's office at (707) 441-4175.

**AGENDA SUMMARY**

<b>RE: PUBLIC HEARING ~ MYCELIA SANDS BUSINESS LOAN REQUEST</b>	<b>FOR AGENDA DATE: MAY 17, 2011</b>  <b>AGENDA ITEM NO.: 1</b>	
<b>RECOMMENDATION:</b>  1. Hold a public hearing; and 2. Adopt a Resolution of the Redevelopment Agency adopting the Findings of Facts required to appropriate \$80,000 for business capital improvement from Redevelopment Agency Funds; and 3. Adopt a Resolution of the City Council funding the remaining \$53,650 working capital requirement from Community Development Block Grant (CDBG) Revolving Loan Funds; and 4. Authorize a loan totaling \$133,650 to Theodore J. Walker, Jr., dba Mycelia Sands, for a term of 10 years with a 3% interest rate, with payments deferred for two years.		
<b>SUMMARY:</b>  Mycelia Sands is a commercial mushroom production business that has been working to get production underway for over a year. The mushroom industry is currently in a very positive and dynamic growth phase.  <div style="text-align: center;"><i>Continued on Page 2</i></div>		
<b>FISCAL IMPACT:</b> The business loan of \$133,650 will be comprised of \$80,000 appropriated from the City's Redevelopment Fund after making the required findings; and \$53,650 from the City's repaid CDBG revolving loan funds.		
<b>DEPARTMENT HEAD SIGNATURE:</b>  Cindy Trobitz-Thomas Director of Redevelopment & Housing	<b>CITY MANAGER SIGNATURE:</b>  David W. Tyson City Manager/Agency Executive Director	
<b>REVIEWED BY:</b>  Assistant City Manager Finance	<b>DATE:</b>  <u>5-12-11</u> <u>5-12-11</u>	<b>INITIALS:</b>  <u>mk/sh</u> <u>pr/sh</u>
<b>Council Action:</b>   <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <span>Ordinance No. _____</span> <span>Resolution No. _____</span> </div>		



**SUMMARY** *(continued)*

Following are excerpts from Mr. Walker's Business Plan:

**"Mission Statement:**

My mission with Mycelia Sands is to create a growing network of healthy people. I believe it is time for people to start taking a look at the foods and products we place in our bodies and become more aware of healthier alternatives. Mushrooms provide a wholesome outlet for proteins and minerals that are essential for normal body functions. I only wish to be part of a growing consciousness of healthier living and to providing quality mushrooms and products for people of all ages."

**"Customers:**

Mushrooms will be sold mostly at wholesale prices to other vendors and distributors. Lists of potential outlets include but are not limited to Farmer's Markets, Grocery Outlets, Co-ops, restaurants, Whole Foods Outlets and distribution channels such as Sierra Madre Mushrooms in Arcata, or Wine Field's down in Napa Valley who specialize in purchasing mushrooms for sale to larger buyers and exporters.

There is an ever growing demand for fresh quality gourmet mushrooms. Restaurants in particular have paved the way for new tasty dishes including mushrooms. I have personally noticed a lack of mushroom strains at many grocery stores throughout California. Button/ Portobello mushrooms have been the American staple over the last few centuries. My strains provide a variety of choices for multiple outlets to pick and choose from. Currently, American growers cannot keep up with the demand. Distributors are forced to import mushrooms from other countries to fill American orders."

Humboldt County has had many successful specialty food products manufactured here and sold out of the area. Exporting products outside of our area is one of the most dynamic ways to grow our economy by bringing new money into our region. As part of the identified Industry Clusters. Specialty Food and Agriculture are both in a positive growth phase. This business also fits into the category Niche Manufacturing.

Mr. Walker has taken considerable time developing his linkages with the retail mushroom arena and is set to sell when production is started. He has also educated himself well in the industry and is poised to create a thriving business in Eureka.

On May 10, 2011 the Agency's Redevelopment Advisory Board (RAB) had the opportunity to learn about Mycelia Sand's business and ask questions of Mr. Walker. Although not an official meeting due to a lack of quorum, the RAB members gave very informative input and also asked questions which brought up important information. Overall the RAB members were very positive about Mycelia Sands potential for business success.

Staff has worked closely with the City's Redevelopment Attorney to meet all legal requirements, which includes matching the funding source which meets all legal criteria.

**RE: PUBLIC HEARING ~ MYCELIA SANDS  
BUSINESS LOAN REQUEST**

**FOR AGENDA DATE:**  
**AGENDA ITEM NO.:**  
*Page 3*

**SUMMARY** *(continued)*

**FUNDING SOURCES & USES**

Mycelia Sands requires funding for both capital improvements and ongoing business expenses. The two categories will be funded from separate sources. Staff has extensively researched how Redevelopment funds can be used. As stated from the California Health and Safety Code Section 33444.6; *'As part of an agreement for development or rehabilitation of property within a project area that will be used for industrial or manufacturing purposes, an agency may assist in financing facilities or capital equipment including, but not limited to, pollution control devices.'*

**CAPITAL IMPROVEMENTS**

The Agency desires to fund Capital Improvements amount not to exceed \$80,000 to make property improvements required in-part by the Americans with Disabilities Act (ADA) and to purchase capital equipment for the purpose of a commercial mushroom manufacturing business, located within the Project Area.

The Capital Improvements will benefit the Project Area by stimulating economic activity that creates jobs, and induces private investment and revitalization of the Project Area, thus assisting in the redevelopment of the Project Area. Redevelopment can be used for the following:

- Equipment Acquisition
- Furniture/Fixtures
- Real Property Acquisition, Construction, Rehabilitation

The remaining \$53,650 working capital requirement will come from Community Development Block Grant (CDBG) Revolving Loan Funds (funds derived from prior revolving loan repayments). These funds can be used for:

- Working Capital/Lines of Credit
- Inventory Purchase

SOURCES OF FUNDING		USES	
Redevelopment Funding	\$ 80,000	Equipment	\$ 40,000
		ADA Requirements & Site Improvements	34,564
		Contingency for unforeseen construction expense	5,436
<b>City of Eureka</b>	\$53,650	Working Capital	53,650
Old CDBG RLF			
<b>TOTAL SOURCES</b>	<b>\$133,650</b>	<b>TOTAL USES</b>	<b>\$133,650</b>

<b>RE: PUBLIC HEARING ~ MYCELIA SANDS BUSINESS LOAN REQUEST</b>	<b>FOR AGENDA DATE: AGENDA ITEM NO.:</b> Page 4
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**SUMMARY** (continued)

**FINANCING BREAKDOWN:**

The amount of \$133,650 loan (3% for 10 years) being requested from the City of Eureka and the Redevelopment Agency would infuse the financing necessary to complete this project.

Upon start-up of the business, TJ used personal cash and a credit card. He has invested over \$90,000 of his own startup capital, but has been prevented from commercial production of his mushroom business, which has led to a cash deficit.

**UNDERWRITING EXCERPTS:**

**Borrower Injection/Capital Contribution:**

*The borrower has spent his own funds over the past year+ in terms of leasehold improvements to the commercial facility (not including the lease payments) and in professional fees with the installation of the boiler and retort equipment, architectural and engineering fees for the design and layout of the facility, and the licensing and permitting fees so far. At this point, the borrower has limited resources to contribute any additional cash toward the project.*

**Assets:**

- *Assets consist of cash, accounts receivable, inventory, equipment/machinery, leasehold improvements, etc.*
- *Working capital is expected to be insufficient for the first two years of operation and will be covered via ~\$53,650 in allocated loan proceeds from the proposed City of Eureka note.*

**Liabilities & Net Worth:**

- *The only liability the business will have will be the proposed City of Eureka note for \$133,650.*
- *Net worth will be negative for the first two years of operation due to the startup nature of the business and the projected loss for the first year. However, by the third year of operation, the business is projecting to have a positive net worth as accumulated profitability and retained earnings is recognized.*

**Conditions:**

- 1) *Annual business and personal financial information, due within 120 days of each fiscal year end.*
- 2) *Quarterly interim business financial statements for the first 12 months of the term of the loan (or longer if deemed necessary by staff), due within 30 days of each quarter end.*
- 3) *Evidence of business liability and hazard insurance, with City of Eureka listed as loss payee.*
- 4) *Evidence of worker's compensation insurance, when employees are hired.*
- 5) *Copy of business license and fictitious business name statement, if applicable.*
- 6) *Copy of lease for business property with a term matching the term of the loan, or have options to renew up to or beyond the term of the loan.*

**RE: PUBLIC HEARING ~ MYCELIA SANDS  
BUSINESS LOAN REQUEST**

**FOR AGENDA DATE:**  
**AGENDA ITEM NO.:**  
*Page 5*

**SUMMARY** *(continued)*

- 7) *Borrower to provide a dissolution of partnership agreement and Buy/Sell Agreement with Milan David Skoro indicating the termination of the partnership and sale/transfer of the assets of the partnership to the borrower for \$40,000.(equipment purchase)*
- 8) *Both principal and interest payments will be deferred for the first two years of operation; interest to continue to accrue during the deferment period and will be based on the outstanding balance.*

**COLLATERAL:**

The City will complete a UCC1 form collateralizing all of Theodore Walker Jr. and Mycelia Sands production equipment and office equipment, and TJ's personal commercial 2005 Chevy Colorado Truck, a detailed list of all collateral will be an addendum to loan security documents.

**RECOMMENDATION:**

1. Hold a public hearing; and
2. Adopt a Resolution of the Redevelopment Agency adopting the Findings of Facts required to appropriate \$80,000 for business capital improvement from Redevelopment Agency Funds; and
3. Adopt a Resolution of the City Council funding the remaining \$53,650 working capital requirement from Community Development Block Grant (CDBG) Revolving Loan Funds; and
4. Authorize a loan totaling \$133,650 to Theodore J. Walker, Jr., dba Mycelia Sands, for a term of 10 years with a 3% interest rate, with payments deferred for two years.

**TERMS AND CONDITIONS:**

Loan Amount	\$133,650
Interest	3%
Terms	10 years with 2 year deferment of payments
Monthly Payment	\$1,290.53 (depending upon final loan amount)
Collateral	UCC1 listing of all collateral

**DOCUMENTS AVAILABLE FOR REVIEW:**

The following financial documents are available for review in the Redevelopment Agency Office:  
Loan Agreement, Security Agreement, and Promissory Note.

**NOTE: DUE TO THE CONFIDENTIAL NATURE OF THE LOAN PACKAGE, APPLICATION INFORMATION HAS BEEN EXCLUDED. ALL MATERIALS ARE AVAILABLE FOR COUNCIL REVIEW IN THE REDEVELOPMENT AGENCY OFFICE.**

Attachment 1: Industry Clusters  
Attachment 2: Underwriting

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE EUREKA REDEVELOPMENT AGENCY MAKING FINDINGS  
REQUIRED BY THE HEALTH AND SAFETY CODE SECTION 33444.6,  
COMMITTING FUNDS FOR CAPITAL IMPROVEMENTS AND EQUIPMENT THAT  
WILL BE USED FOR MANUFACTURING PURPOSES AND LOCATED IN  
THE EUREKA TOMORROW PROJECT AREA**

**WHEREAS**, the City Council of the City of Eureka (the "CITY COUNCIL") adopted the Eureka Tomorrow Project Area Plan (the "REDEVELOPMENT PLAN") on December 4, 1973, by Ordinance No. 224-CS, affecting the Eureka Redevelopment Project Area (the "PROJECT AREA");

**WHEREAS**, the Eureka Redevelopment Agency (the "AGENCY") is vested with responsibility pursuant to the Community Redevelopment Law (Part I of Division 24 of the Health and Safety Code of the State of California (the "LAW") to implement the REDEVELOPMENT PLAN in the PROJECT AREA; and

**WHEREAS**, the AGENCY desires to expend funds in an amount not to exceed Eighty Thousand Dollars (\$80,000) (the "LOAN") to make property improvements required in-part by the Americans with Disability Act (ADA) and to purchase capital equipment used in the business MYCELIA SANDS, which is located in the PROJECT AREA, for the purpose of commercial mushroom manufacturing (the "CAPITAL IMPROVEMENTS"); and

**WHEREAS**, AGENCY expenditures for the CAPITAL IMPROVEMENTS will benefit the PROJECT AREA by stimulating economic activity that induces private sector investment in and revitalization of the PROJECT AREA, thus assisting in the redevelopment of the PROJECT AREA, all as more fully outlined in the Staff Report described below; and

**WHEREAS**, the CAPITAL IMPROVEMENTS have been found to conform with the General and Redevelopment Plans of the City; and

**WHEREAS**, by staff report accompanying this Resolution and incorporated into this Resolution by this reference ("the Staff Report"), the AGENCY has been provided with additional information upon which the actions set forth in this Resolution are based. Among other things, the Staff Report describes the CAPITAL IMPROVEMENTS; and

(1) sets forth facts supporting the findings made in this Resolution pursuant to Section 33444.6 of the LAW; and

(2) sets forth the redevelopment purpose to be served by the proposed AGENCY expenditure for the CAPITAL IMPROVEMENTS pursuant to Section 33444.6 of the LAW; and

**NOW THEREFORE**, based on information presented to the AGENCY, including the information provided in the Staff Report, and in compliance with the requirements of Section

33444.6 of the LAW, the AGENCY hereby resolves as follows:

1. All of the above recitals are true and correct, and the AGENCY has based the findings and actions set forth in this Resolution, in part, on such recitals.
2. The AGENCY hereby finds and determines that:
  - a) the proposed CAPITAL IMPROVEMENTS will be of benefit to the PROJECT AREA; and
  - b) Financial assistance in the form of the LOAN is necessary for the economic feasibility of the project; and
  - c) assisting in the funding of the CAPITAL IMPROVEMENTS will assist in the elimination of one or more blighting conditions inside the PROJECT AREA and consistent with the Agency's Implementation Plan; and
  - d) funding the LOAN is necessary to effectuate the purposes of the Redevelopment Plan. The factual and analytical basis used by the Agency in making these findings and determinations is set forth in the Staff Report and materials regarding the funding of the CAPITAL IMPROVEMENTS provided to the AGENCY.
3. The AGENCY hereby commits to the expenditure of up to Eighty Thousand Dollars (\$80,000) for the purpose of funding the CAPITAL IMPROVEMENTS.
4. The AGENCY hereby authorizes the Agency Executive Director to execute any and all documents necessary to evidence the LOAN, and to the extent necessary, the Agency's budget is hereby amended to provide for such allocation of the funds for the LOAN.
5. This Resolution shall take immediate effect from and after its passage and approval.

**THIS RESOLUTION IS HEREBY PASSED, APPROVED AND ADOPTED** by the Eureka Redevelopment Agency in the County of Humboldt, State of California, on the 17th day of May, 2011, by the following vote:

**AYES: BOARD MEMBERS**  
**NOES: BOARD MEMBERS**  
**ABSENT: BOARD MEMBERS**  
**ABSTAIN: BOARD MEMBERS**

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**Frank J. Jäger**  
**CHAIRMAN**

**ATTEST:**

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**Pamela J. Powell**  
**EXECUTIVE SECRETARY**

**APPROVED FOR ADMINISTRATION:**

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**David W. Tyson**  
**AGENCY EXECUTIVE DIRECTOR**

**APPROVED AS TO FORM:**

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**William Bragg**  
**INTERIM AGENCY ATTORNEY**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE EUREKA CITY COUNCIL MAKING FINDINGS REQUIRED  
TO COMMIT FUNDS FOR WORKING CAPITAL THAT WILL BE USED FOR  
MANUFACTURING PURPOSES**

**WHEREAS**, the CITY COUNCIL desires to expend funds in an amount not to exceed Fifty Three Thousand Six Hundred Fifty Dollars (\$53,650) (the "LOAN") to provide working capital to be used in the business MYCELIA SANDS for the purpose of commercial mushroom manufacturing (the "WORKING CAPITAL"); and

**WHEREAS**, CITY expenditures for the WORKING CAPITAL will benefit the CITY OF EUREKA (the "CITY") by stimulating economic activity that induces private sector investment and job creation, all as more fully outlined in the Staff Report described below; and

**WHEREAS**, the provision of WORKING CAPITAL has been found to conform with the City of Eureka Business Revolving Loan Fund Guidelines; and

**WHEREAS**, by staff report accompanying this Resolution and incorporated into this Resolution by this reference ("the Staff Report"), the CITY COUNCIL has been provided with additional information upon which the actions set forth in this Resolution are based. Among other things, the Staff Report describes the WORKING CAPITAL purpose; and

(1) sets forth facts supporting the findings made in this Resolution; and

(2) sets forth the purpose to be served by the proposed CITY expenditure for WORKING CAPITAL; and

**NOW THEREFORE**, based on information presented to the CITY COUNCIL, including the information provided in the Staff Report, the CITY COUNCIL hereby resolves as follows:

3. All of the above recitals are true and correct, and the CITY COUNCIL has based the findings and actions set forth in this Resolution, in part, on such recitals.
4. The CITY COUNCIL hereby finds and determines that:
  - b) the proposed WORKING CAPITAL LOAN will be of benefit to the CITY; and
  - b) Financial assistance in the form of the LOAN is necessary for the economic feasibility of the project; and
  - d) assisting in the funding of the WORKING CAPITAL will provide economic benefit and job creation to the CITY; and



- d) funding the LOAN is necessary to effectuate the purposes of the Redevelopment Plan. The factual and analytical basis used by the CITY COUNCIL in making these findings and determinations is set forth in the Staff Report and materials regarding the funding of the WORKING CAPITAL provided to the CITY COUNCIL.

3. The CITY COUNCIL hereby commits to the expenditure of up to Fifty Three Thousand Six Hundred Fifty Dollars (\$53,650) for the purpose of funding the WORKING CAPITAL.

4. The CITY COUNCIL hereby authorizes the City Manager to execute any and all documents necessary to evidence the LOAN, and to the extent necessary, the City's budget is hereby amended to provide for such allocation of the funds for the LOAN.

5. This Resolution shall take immediate effect from and after its passage and approval.

**PASSED, ADOPTED AND APPROVED** by the Council of the City of Eureka and, County of Humboldt, State of California, on the 17<sup>th</sup> day of May, 2011, by the following votes:

**AYES: COUNCILMEMBERS**  
**NOES: COUNCILMEMBERS**  
**ABSENT: COUNCILMEMBERS**  
**ABSTAIN: COUNCILMEMBERS**

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**Frank J. Jäger, MAYOR**

**ATTEST:**

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**Pamela J. Powell**  
**CITY CLERK**

**APPROVED AS TO ADMINISTRATION:**

**APPROVED AS TO FORM:**

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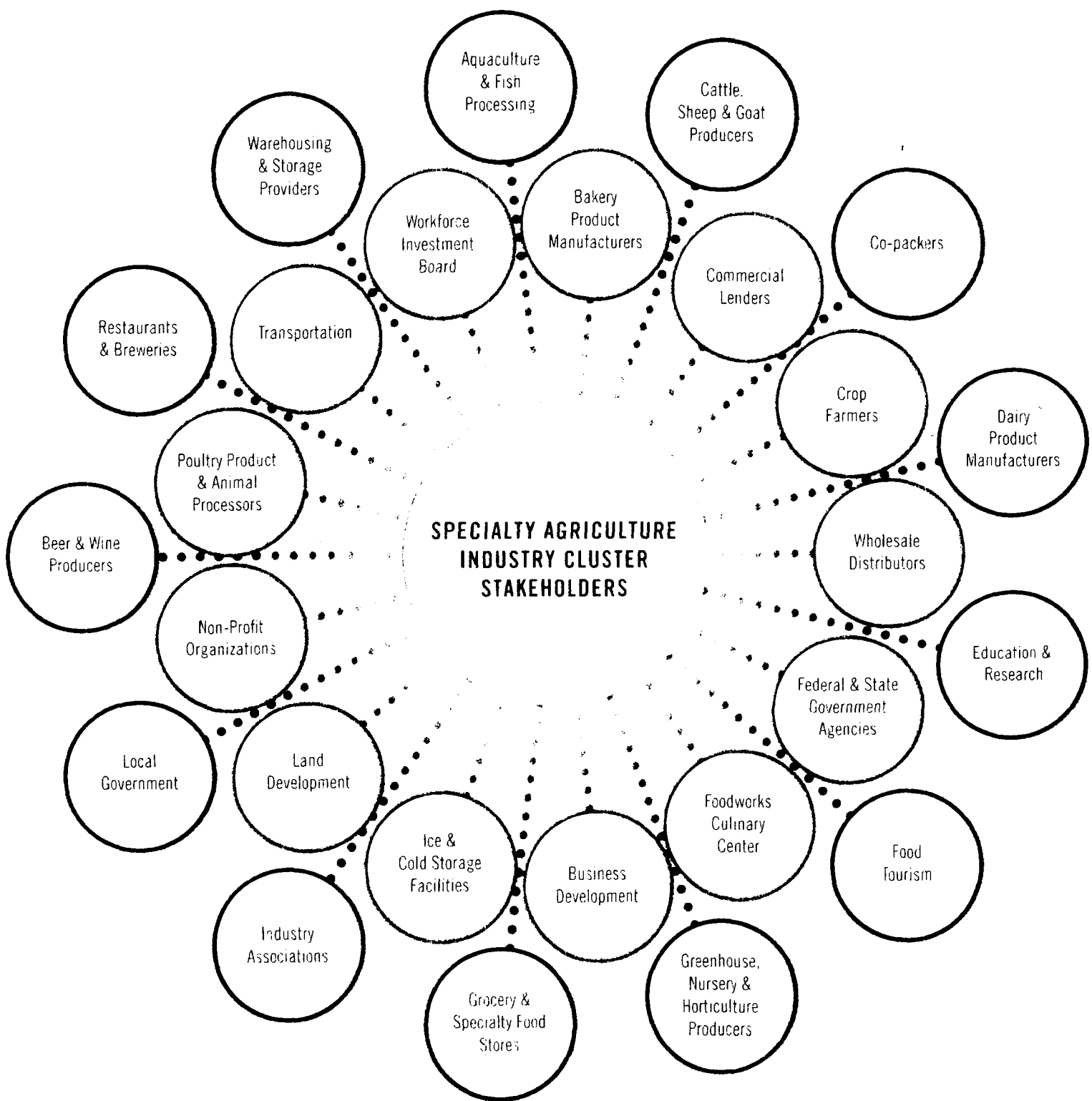
**David W. Tyson**  
**CITY MANAGER**

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**William Bragg**  
**INTERIM CITY ATTORNEY**

# STAKEHOLDERS OF THE REDWOOD COAST SPECIALTY AGRICULTURE FOOD & BEVERAGE INDUSTRY

14,566 Jobs - 25% of Total Workforce





*Arcata Economic Development Corporation*  
***Loan Proposal Memorandum***

**Date:** May 12, 2011

**Loan Officer:** K. Denney

**BORROWER(S):**

**BORROWER:** Theodore F. Walker  
**BUSINESS NAME:** Mycelia Sands  
**BORROWER TYPE:** Sole Proprietorship  
**BUSINESS ADDRESS:** 813 W. 14<sup>th</sup> Street, Eureka, CA 95501  
**MAILING ADDRESS:** Same  
**TAX ID NUMBER:** TBD  
**CONTACT INFORMATION:** 707-599-0402 – phone; [mycelialsands@yahoo.com](mailto:mycelialsands@yahoo.com)

**LOAN REQUEST:**

<i>Project Amount:</i>	<i>Loan Amount:</i>	<i>Term:</i>	<i>Rate:</i>	<i>Pymt Amt:</i>	<i>Pymt Start Date:</i>	<i>Maturity Date:</i>
\$133,650	\$133,650	2 years deferred; followed by 10 year term	3%	~1,290.53	~2 years	~2023

**LOAN PURPOSE:** Start-up of mushroom growing and manufacturing operation

<b>LOAN FUND:</b>	City of Eureka Redevelopment	\$80,000
	City of Eureka HUD/CDBG	\$53,650

**LOAN GRADE:** n/a

**NAICS CODE:** 111411 – Mushroom farming and cultivation

**EXCEPTIONS TO POLICY** n/a

**EXISTING DEBT TO AEDC:** n/a

**NATURE OF BUSINESS:** Mushroom Growing/Manufacturing

**PRINCIPAL (S) :** Theodore F. Walker, Jr.

**GUARANTORS:** n/a *Amount: \$*

<b>LOAN ORIGATION FEES:</b>	n/a	n/a	n/a
	<i>SBA Microloan: \$100 per year</i>	<i>All other loan funds: 2.00% of loan amount</i>	<i>City or SBA 504</i>

**CREDIT ELSEWHERE:** *Brief description of why applicant is unable to obtain conventional financing.*

The company is a start-up operation with repayment based entirely upon projections; in addition, the collateral coverage is insufficient

**EMPLOYMENT:**

<i>Current FTE Employees</i>	<i>New Jobs Created/Retained</i>	<i>Over What Period</i>
0	0	

**PRIMARY SOURCE OF REPAYMENT:**

Business Cash Flow

**SECONDARY SOURCE OF REPAYMENT:**

Liquidation of collateral/Collection from borrower

**COLLATERAL SUMMARY:**

*Give details in collateral section*

UCC Financing Statement on all business assets

**STRENGTHS:**

- The borrower is extremely knowledgeable about the mushroom industry and is experienced in growing different varieties of mushrooms
- Eventually, as the business grows, the borrower will be hiring employees to assist with the growing process as the company moves into other potential product manufacturing items
- The borrower is an existing business owner, having owned and operated a successful and profitable artistic glass blowing business over the last three years.

**WEAKNESSES:**

- Collateral coverage is insufficient
- Repayment is based on projections
- Borrower has had recent past due activity on his personal credit
- The borrower has established a "trade" agreement with local farmers and individuals for the wood needed for the mushroom production. If these "trade" agreements should be eliminated for any reason it would have a negative impact on the overall cash flow and repayment ability of the business depending upon the cost of obtaining the hardwood necessary for the operation, which has not been explored.

## **HISTORY OF BORROWER:**

*History / Changes in business Structure / Affiliates / Management*

- Mycelia Sands will be an indoor mushroom production operation that will be located at 813 14<sup>th</sup> Street, Eureka, CA. The business will be owned and operated by Theodore Walker, Jr. (TJ) who has been working within the mushroom industry for the last 16 years – having grown his first mushroom at the age of 15, and studied the cultivation practices of growing gourmet mushrooms through courses and training provided by leading industry expert and mycologist, Paul Stamets, of Fungi Perfecti, LLC.
- The company will cultivate and produce a variety of gourmet mushrooms, including Shitake, Oyster, Nameko (mushrooms in Miso soup), Red Reishi, Maitake, and Lions Mane. All strains were originated from Paul Stamets and the borrower carries a certification and license through Fungi Perfecti, LLC to sell commercial proprietary strains that will give him an advantage over competitors as Paul's strains have proven to be commercially viable and stable strains.
- The borrower began the process of starting his own mushroom production facility approximately 2 years ago (July 2009) when he began leasing the current space at 813 14<sup>th</sup> Street – at that time only 2,000 square feet – and purchased the necessary sanitizing equipment in August and October 2009. To support himself, the borrower has continued with his existing glass blowing business that also operates out of the same facility – the borrower manufactures artistic glass products that are sold in retail and gift shops throughout California – from Northern California to the Bay Area and beyond. In 2010, the borrower began the process of expanding the commercial facility to accommodate the mushroom business by doubling the space to 4,000 square feet and applying for the necessary permits and licenses.
- Mushroom production process begins with wood chips, sawdust and organic materials, which are bagged and sterilized using live steam to initiate mushroom growth. The sterilization process kills all bacteria present in the wood and provides a clean environment for the mushroom roots to grow. After sterilization, the mushroom roots are allowed to incubate and grow, which can take from 2 to 16 weeks depending upon the strain of mushroom. Through the incubation process, the mushroom roots are forced into fruiting mushroom bodies by using a controlled environment. The mushrooms are then harvested and readied for sale – shelf life of the mushrooms are approximately two weeks from harvesting.
- The borrower intends to sell his gourmet mushrooms at local Farmer's Markets and specialty events, grocery stores and co-ops, restaurants, retailers, and wholesale distributors. The majority of the distributors will not enter into a purchase contract until they see a proven steady supply of product (mushrooms). Therefore, the borrower will initially be selling his products in smaller quantities until the mushrooms are in full overlapping cycles and he can provide the distributors with the necessary reliability they require. A certain amount of travel will be involved in the initial startup phase of the company until distribution contracts can be established. The borrower currently travels on a regular basis – visiting up to 60 clients/shops per month throughout California for his artistic glass products – and therefore, adding stops for mushroom sales at stores, restaurants and wholesale distributors will be an easy addition to his regular traveling schedule.

- The borrower originally began Mycelia Sands with a partner/investor, Milan David Skoro, who provided the funds necessary to purchase the sanitizing equipment necessary for mushroom cultivation and production. Mr. Skoro also provided funding for miscellaneous supplies and equipment. The equipment purchased included a boiler and a retort – both used for the sterilization process – that cost a combined total of \$35K. The borrower and Mr. Skoro would like to terminate their partnership, with the borrower continuing the operation as a sole proprietorship. The total buyout for Mr. Skoro is \$40K. In addition, the borrower is requesting additional startup funds to purchase equipment, make the necessary leasehold improvements to the commercial facility, purchase supplies, and have sufficient working capital to carry the business through the first two years of operation until stabilization of production has been achieved.
- Sources and uses of funds are as follows:

<u>Sources:</u>		<u>%</u>	<u>Uses:</u>	<u>Inventory</u>	<u>Wking Cap</u>	<u>Supplies</u>	<u>Impvmts</u>	<u>Contingency</u>	<u>P/O Parter</u>	<u>Equip</u>
City of Eureka	133,650.00	100.0%		5,018	48,632	5,664	15,900	5,436	40,000	13,000
Borrower	-	0.0%		-	-	-	-	-	-	-
<b>Total Sources:</b>	<b>133,650.00</b>	<b>100.0%</b>	<b>Total Uses:</b>	<b>5,018</b>	<b>48,632</b>	<b>5,664</b>	<b>15,900</b>	<b>5,436</b>	<b>40,000</b>	<b>13,000</b>

- Inventory includes the initial purchase of production supplies, including rye grain, wheat bran, filter bags, rice straw, etc. Supplies include the purchase of H.E.P.A filters, a sealer, storage totes, barrels, scales, etc. Equipment includes storage trailers, metal racks, shelving, etc. Improvements are necessary for the permitting process, which include ADA compliant changes such as handicapped parking, sidewalks, and curb painting as well as other requirements such as fire rated sheet rock, ceiling supports, insulation, and shelving units. Contingency funds are specifically allocated for potential cost overruns in improvements and/or prevailing wage costs, if applicable.
- Borrower Injection/Capital Contribution: The borrower has spent his own funds over the past year+ in terms of leasehold improvements to the commercial facility (not including the lease payments) and in professional fees with the installation of the boiler and retort equipment, architectural and engineering fees for the design and layout of the facility, and the licensing and permitting fees so far. At this point, the borrower has limited resources to contribute any additional cash toward the project.
- Economic Conditions/Community: According to the borrower, there is only one other local mushroom production facility in the area (Mycality Mushrooms in Arcata) and at this location he was instrumental in both the setup and ongoing operation for nearly 5 ½ years having helped the owner (Mike Egan) throughout the entire process. However, differences ensued between the owner and the borrower and he left to pursue his own operation approximately 2 years ago. Mycality Mushrooms sells at the local farmers markets in Arcata and Eureka and to local restaurants and markets.

## COLLATERAL DETAIL:

Recommended collateral is a UCC Financing Statement on all business assets, including accounts receivable, inventory, furniture, fixtures, machinery, equipment, etc. Existing equipment owned by the borrower consists of the Boiler (purchased for \$27K) and the Retort (purchased for \$8K). Equipment to be purchased includes two truck trailers (\$4K), metal shelving rack units (\$5K) and miscellaneous other small equipment/tools. The borrower owns a commercial truck that he values at approximately \$9K that could also be taken as collateral.

<b><i>Collateral Analysis</i></b>			
<b><u>Collateral</u></b>	<b><u>Value by Applicant</u></b>	<b><u>Liquidation %</u></b>	<b><u>AEDC Liquidated Value</u></b>
Machinery/Equipment	44,339	50%	22,170
Furniture/Fixtures	-	10%	-
Accounts Receivable/Inventory	8,000	20%	1,600
Leasehold Improvements	19,500	5%	975
<b>Total Business Assets</b>	<b>71,839</b>		<b>24,745</b>
Vehicle(s) Kelly Blue Book	9,000	80%	7,200
<b>Total Collateral</b>	<b>80,839</b>		<b>31,945</b>
<b>Total AEDC Loan Amount</b>	<b>133,650</b>		<b>133,650</b>
<b>Total LTV</b>	<b>165.3%</b>		<b>418.4%</b>

## BUSINESS FINANCIAL REVIEW:

*Equity / Leverage / Liquidity / Activity / Profitability*

### Source of Information

The following financial information was spread (see attached business Financial Analysis) and reviewed below:

- Projections for the first three years of operation

### Revenue, Expenses & Profitability

- The borrower will be selling his mushrooms on a wholesale basis with a range of price between a low of \$3.00 to \$4.00 per pound for four of the six varieties of mushrooms, including Shitake, Oyster, Lion's Mane, and Nameko and upwards of \$15.00 to \$20.00 per pound for Maitake and Reishi. To remain extremely conservative, the borrower estimated only \$3.00/pound for all varieties for the first and second projected years and ~\$3.75/pound for year three. The borrower will have 500 "blocks" of mushrooms produced each week – each block weighing approximately 5 pounds with the mushroom weight coming out to anywhere between 30% to 200% of the original 5 lb weight. The borrower used the lowest percentage of 30%, which resulted in approximately 750 total

pounds of mushroom production (5 lbs @ 30% weight = 1.5 pounds per block; 500 blocks @ 1.5 pounds = 750 pounds/week; 750 pounds @ \$3.00 per pound = \$2,250/week at wholesale).

- Growing time depends on the variety of mushroom, but can take anywhere from 2 to 16 weeks. It will be the borrower's goal to begin overlapping cycles of each variety of mushroom so that within 6 months to one year all mushrooms will be cycling on an ongoing basis to provide a constant stream of revenue.
- Cost of goods sold consist of the production items necessary to cultivate mushrooms, which include rye grain, wheat bran, rice straw, and plastic bags with filter patches. The cost and the quantity of each of the items is shown below:

<b><u>Item</u></b>	<b><u>Quantity</u></b>	<b><u>Price</u></b>	<b><u>Frequency of Purchase</u></b>
Rye Grain	2,000 lbs	\$ 1,500.00	Every 4 months
Wheat Bran	2,000 lbs	\$ 1,500.00	Every 4 months
Filter Patch Bags	10,000 bags	\$ 1,500.00	Every 4 months
Rice Straw	50 bales	\$8.00/bale	Once per week

- Additional production items needed are hardwoods for the woodchips and sawdust, which the borrower has been able to negotiate trades with local farmers and individuals for removal of tan oak and alder trees, which has virtually become overgrowth, in exchange for the infusion of mushrooms into the stumps that will produce mushrooms for the farmers/individuals at least 2 times per year for their own personal use. The wood will be obtained once a month.
- The one "unknown" expense that the borrower has acknowledged and even accounted for is what it will cost for distribution using a buy/sell distributor – most of whom will not negotiate any contract until a reasonable assurance of continued production has been established. The borrower has essentially allowed for the cost of distribution by using the lowest possible price per pound for all varieties of mushrooms, which will absorb the distribution costs since the average price for wholesale will most likely be much higher than the \$3.00/pound used for the projected revenue. Aside from using wholesale distributors, the borrower will initially drive to mushroom wholesalers located throughout California. The borrower currently makes several trips up and down California visiting 50 to 60 gift shops and stores for his glass blowing products each month, so adding mushrooms to his trips will be an added benefit with the cost and expense of doing so absorbed by the glass blowing operation.
- Operating expenses are projected to be relatively stable after the first several months of startup. Expenses will include rent for a 4,000 square foot facility, accounting/financial management fees utilizing the borrower's current accountant (Glen Tinseth), insurance, utilities, etc.
- Profitability is expected to be achieved in year three, with a loss for the 2011 year due to the startup nature of the company and a very minimal profit for the 2012 year as the mushroom production stabilizes and begins to successfully overlap in cycles. Repayment of the proposed loan will not begin to take place until year three, which is when the business should have sufficient cash flow and profitability to debt service the loan and provide an adequate owner's draw for personal living expenses and obligations.
- Other income includes an approximate net income from the borrower's glass blowing business, which has been projected based on a historical two year average. The borrower will continue with the glass blowing operation until such time that Mycelia Sands provides sufficient income to support both the proposed City of Eureka loan and the borrower's personal obligations and living expenses.



### Assets

- Assets consist of cash, accounts receivable, inventory, equipment/machinery, leasehold improvements, etc.
- Working capital is expected to be insufficient for the first two years of operation and will be covered via ~\$52K in allocated loan proceeds from the proposed City of Eureka note.

### Liabilities & Net Worth

- The only liability the business will have will be the proposed City of Eureka note for \$133.6K.
- Net worth will be negative for the first two years of operation due to the startup nature of the business and the projected loss for the first year. However, by the third year of operation, the business is projecting to have a positive net worth as accumulated profitability and retained earnings is recognized.

## AGENDA SUMMARY

**RE: 2011 CDBG PLANNING AND TECHNICAL ASSISTANCE GRANT APPLICATION TO ASSIST "HUMBOLDT BAY HOUSING & DEVELOPMENT CORPORATION, A NON-PROFIT"**

**For Agenda Date: MAY 17, 2011**

**Agenda Item No.:**

3.

### RECOMMENDATION:

1. Hold a public hearing.
2. Adopt a Resolution approving an application on behalf of Humboldt Bay Housing Development Corporation (HBHDC), for a Community Development Block Grant (CDBG) Planning & Technical Application (PTA) Grant in the amount of \$35,000 for a Feasibility Study of an Acquisition and Rehabilitation Program of Vacant Foreclosed Single Family Homes Suitable for Placement into an Existing First Time Homebuyer Program or a Community Land Trust First Time Homebuyer Program.

### SUMMARY OF THE ISSUE:

The Housing Advisory Board is scheduled to meet at 4pm on May 16, 2011, but will be unable to take action on this item due to a member conflict of interest, resulting in a lack of a quorum. Therefore, this item has come directly before the City Council on behalf of Humboldt Bay Housing Development Corporation's (HBHDC) request for a CDBG PTA General Allocation grant of \$35,000 for a Feasibility Study of an Acquisition and Rehabilitation Program of Vacant Foreclosed Single Family Homes Suitable for Placement into an Existing First Time Homebuyer Program or a Community Land Trust First Time Homebuyer Program. (Continued Next Page)

**FISCAL IMPACT: None. (Although the City as Grantee must commit by resolution the Cash Match, HBHDC has agreed to provide the required cash match of \$8,750.)**

**DH SIGN:**

  
Cindy Trobitz-Thomas  
Director of Redevelopment & Housing

**CM SIGN:**

  
David W. Tyson  
City Manager

**REVIEWED BY:**

Finance

City Attorney

Community Dev.

Building

Engineering

**DATE:**

5-12-11

5-12-11

5-12-11

—

**INITIALS:**

pr/sh

ls/sh

BG/sh

—

### COUNCIL ACTION:

**Ordinance No.**

**Resolution No.**

# AGENDA SUMMARY

**RE: 2011 CDBG PLANNING AND TECHNICAL ASSISTANCE GRANT APPLICATION TO ASSIST "HUMBOLDT BAY HOUSING & DEVELOPMENT CORPORATION", A NON-PROFIT**

**For Agenda Date: May 17, 2011**

**Page Two**

## **SUMMARY OF THE ISSUE: (Continued)**

To address the need for community investment in vacant foreclosed homes, HBHDC is interested in developing a program that would acquire and rehabilitate vacant foreclosed homes to place into a First Time Homebuyer program for purchase by targeted income group (TIG) households (those earning 80% of Area Median Income) . The study would also analyze the feasibility of placing the homes into a Community Land Trust program that would maximize public subsidies invested in the properties by keeping the homes affordable to TIG First Time Homebuyers from one household to the next. The proposed study would allow HBHDC to determine the feasibility of developing such a program.

The feasibility study would be conducted by HBHDC staff, in house. Background research and information gathering would be conducted through interview with public and private funding agencies, banking professionals, planners, general contractor, potential TIG First Time Homebuyers, real estate professionals, HBHDC Executive Director, and others. Additional information would be collected from public records, reference material, case studies, online data sources, and field surveys. A consultant would be hired to conduct a survey of the condition and rehabilitation needs of the properties identified as having potential for acquisition and rehabilitation. The following major categories of information would be ascertained from the research phase of the study: 1) Funding needs, 2) Available sources of funding, 3) Financing data on affordable sales prices to TIG households and their financing needs, 4) Target market of TIG households, 5) Community Land Trust Program that could be compatible with the proposed program and available funding sources, 6) Market data of single family homes for sale and those that are REO (class of property owned by a lender typically a bank, government agency, or government loan insurer after an unsuccessful sale at a foreclosure auction, in foreclosure, and in the short sale process.

After the completion of the research phase, an analysis of the information would be conducted and written into a report format. The report would include budgets and data tables to illustrate the analysis, a summary of the conclusions drawn and recommendations on program design based on those conclusions. A final conclusion would complete the report.

## **GRANT REQUIRED CASH MATCH:**

Due to the current probability of Eureka Redevelopment Agency reform or possible elimination, the State Take of funds from Redevelopment in the last two years, and current limited funding, HBHDC, upon award of the CDBG PTA grant, will deposit the required cash match of \$8,750 (25% of the grant award) to the City of Eureka Finance Department to be expended before the CDBG PTA funds are accessed.

## **AGENDA SUMMARY**

**RE: 2011 CDBG PLANNING AND TECHNICAL  
ASSISTANCE GRANT APPLICATION TO  
ASSIST "HUMBOLDT BAY HOUSING &  
DEVELOPMENT CORPORATION, A NON-  
PROFIT"**

**For Agenda Date: May 17, 2011**

**Page Three**

### **STAFF RECOMMENDATIONS:**

1. Hold a public hearing.
2. Adopt a Resolution approving an application for Humboldt Bay Housing and Development Corporation (HBHDC), for a State of California Community Development Block Grant (CDBG) Planning & Technical Application (PTA) grant in the amount of \$35,000 for a Feasibility Study of an Acquisition and Rehabilitation Program of Vacant Foreclosed Single Family Homes Suitable for Placement into an Existing First Time Homebuyer Program or a Community Land Trust First Time Homebuyer Program.

**ATTACHMENT A: *LETTER OF REQUEST***

**ATTACHMENT B: *LETTER OF FINANCIAL COMMITMENT***

**ATTACHMENT C: *RESOLUTION***

*Attachment A*

***HUMBOLDT BAY HOUSING DEVELOPMENT  
CORPORATION LETTER OF REQUEST***



## Humboldt Bay Housing Development Corporation

P.O. Box 4655, Arcata, CA 95518 \* p: (707) 826-7312 \* f: (707) 826-7319 \* e: [hbhdc@hbhdc.org](mailto:hbhdc@hbhdc.org)

### Board of Directors

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Jake Smith  
Vice President

Edith Stromberg -  
Wall  
Treasurer

Lance Corley  
Secretary

Mike Atkins  
Director

Kay Escarda  
Director

Bob Lawton  
Director

Dana Gregg  
Director

Monty Nickerson  
Director

Jeff Katz  
Director

May 2, 2011

Melinda Petersen, Programs Coordinator  
City of Eureka/Eureka Redevelopment Agency  
531 K Street  
Eureka, CA 95501

Dear Ms. Petersen,

Please accept this letter of commitment for Humboldt Bay Housing Development Corporation's (HBHDC) application to the Community Development Block Grant Planning and Technical Assistance (CDBG PTA) program. HBHDC's mission is to develop and manage quality housing that is affordable to low- and very-low income seniors, individuals and families. We currently provide low cost housing to over 165 households residing in five apartment complexes in Arcata and McKinleyville and we are the steward of 22 permanently affordable Community Land Trust homeownership opportunities in Arcata.


In the last few years we have seen a rising need for community investment in vacant foreclosed homes located within the City of Eureka. For this reason, we propose to study the feasibility of acquiring and rehabilitating vacant foreclosed homes to place in a First Time Homebuyer or Community Land Trust program for Targeted Income Group (TIG) households – those earning 80% or less of the Area Median Income (AMI).

The CDBG PTA funds will enable us to undertake the study which would not otherwise be feasible for us to conduct due to our limited sources of funding. As a nonprofit community housing developer, we rely on public and private grants, grass roots fundraising and a small portion of property management fees to conduct the vital studies necessary to launch new affordable housing projects. This CDBG PTA grant is crucial to allow us to conduct the study that will benefit the City of Eureka and its residents.

We are committed to fulfilling the tasks that are more fully detailed in the application submitted for your review. Further, we are committed to working closely with you and your staff to ensure that we are doing whatever necessary to comply with the conditions of the CDBG PTA program.

Please let me know if there is anything we can do to help facilitate this process.

Sincerely,

  
Bonnie Hughes  
Executive Director



EQUAL HOUSING OPPORTUNITY

HBHDC is a 501(C)(3) dedicated to developing and managing housing that is affordable to low-income households.

*Attachment B*

***HUMBOLDT BAY HOUSING DEVELOPMENT  
CORPORATION LETTER OF FINANCIAL  
COMMITMENT***



# Humboldt Bay Housing Development Corporation

P.O. Box 4655, Arcata, CA 95518 \* p: (707) 826-7312 \* f: (707) 826-7319 \* e: [hbhdc@hbhdc.org](mailto:hbhdc@hbhdc.org)

## Board of Directors

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Kay Escarda  
Director

Bob Lawton  
Director

Dana Gregg  
Director

Monty Nickerson  
Director

Jeff Katz  
Director

May 2, 2011

Melinda Petersen, Programs Coordinator  
City of Eureka/Eureka Redevelopment Agency  
531 K Street  
Eureka, CA 95501

Dear Ms. Petersen,

Please accept this letter of financial commitment for Humboldt Bay Housing Development Corporation's (HBHDC) application to the Community Development Block Grant Planning and Technical Assistance (CDBG PTA) program.

HBHDC proposes to study the feasibility of acquiring and rehabilitating vacant foreclosed homes to place in a First Time Homebuyer program or Community Land Trust program for Targeted Income Group (TIG) households – those earning 80% or less of the Area Median Income (AMI). The total cost of the study is estimated at \$43,750 of which we are requesting \$35,000 from the CDBG PTA program.

In compliance with the terms of the CDBG PTA program, HBHDC hereby commits the required 25% cash match, or \$8,750 to help cover a significant portion of the study. As such, this is a demonstration of HBHDC's full commitment to the success of the project.

Thank you for your support of our application. We look forward to working with you.

Sincerely,

  
Bonnie Hughes  
Executive Director



EQUAL HOUSING OPPORTUNITY

HBHDC is a 501(C)(3) dedicated to developing and managing housing that is affordable to low-income households.



*Attachment C*

***RESOLUTION***

**RESOLUTION NO. 2011-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA  
APPROVING AN APPLICATION FOR FUNDING AND THE EXECUTION  
OF A GRANT AGREEMENT AND ANY AMENDMENTS THERETO  
FROM THE PLANNING TECHNICAL ASSISTANCE ALLOCATION OF THE  
STATE CDBG PROGRAM**

**HUMBOLDT BAY HOUSING DEVELOPMENT CORPORATION FEASIBILITY STUDY**

**BE IT RESOLVED** by the City Council of the City of Eureka as follows:

**SECTION 1.**

The City Council has reviewed and hereby approves an application under the General Allocation for up to \$35,000 for the following planning activity:

The Humboldt Bay Housing Development Corporation Feasibility Study of an Acquisition and Rehabilitation Program of Vacant Foreclosed Single Family Homes Suitable for Placement into an Existing First Time Homebuyer Program or a Community Land Trust First Time Homebuyer Program. In the Amount of: \$35,000

**SECTION 2.**

The City Council has determined that federal Citizen Participation requirements were met during the development of this application.

**SECTION 3.**

This study will be conducted to benefit targeted income group First Time Homebuyer households, or households earning 80% or less of Area Median Income.

**SECTION 4.**

For Cash Match, the City Council hereby approves the use of Humboldt Bay Housing and Development Corporation's funds in the amount of \$8,750 (required 25% of the Grant award of \$35,000) to be used as the City's Cash Match for this application.

**SECTION 5.**

The City Manager is hereby authorized and directed to act on the City's behalf in all matters pertaining to this application.

**CITY RESOLUTION #2011-\_\_\_\_**  
**CDBG & PTA APPLICATION**  
**HUMBOLDT BAY HOUSING DEVELOPMENT CORPORATION FEASIBILITY STUDY**

**SECTION 6.**

If the application is approved, the City Manager, Director of Redevelopment & Housing, and Finance Director are authorized to sign funds requests and other required reporting forms.

**PASSED, ADOPTED, AND APPROVED** at a regular meeting of the City Council by the Council of the City of Eureka, County of Humboldt, State of California, on the 17<sup>th</sup> day of May, 2011 by the following vote:

<b>AYES:</b>	<b>COUNCILMEMBERS</b>
<b>NOES:</b>	<b>COUNCILMEMBERS</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS</b>
<b>ABSTAIN:</b>	<b>COUNCILMEMBERS</b>

---

**FRANK JAGER, MAYOR**  
**CITY OF EUREKA**

**ATTEST:**

---

**PAMELA J. POWELL**  
**CITY CLERK**

**APPROVED AS TO ADMINISTRATION:**

**APPROVED AS TO FORM:**

---

**DAVID W. TYSON**  
**CITY MANAGER**

---

**WILLIAM L. BRAGG**  
**CITY ATTORNEY**

**AGENDA SUMMARY**

**RE: REDEVELOPMENT AGENCY  
DISPOSITION AND DEVELOPMENT  
AGREEMENT WITH OPEN DOOR  
COMMUNITY HEALTH CENTERS  
(AP #002-191-031)**

**FOR AGENDA DATE: MAY 17, 2011  
AGENDA ITEM NO.:**

3

**RECOMMENDATION:**

1. Hold a Public Hearing to receive input on the proposed property sale.
2. Adopt Resolutions of the Redevelopment Agency and City Council approving a Disposition and Development Agreement with Open Door Community Health Centers for the purchase of Assessor Parcel No# 002-191-031.
3. Authorize execution of a Disposition and Development Agreement with Open Door Community Health Centers

**SUMMARY:**

On November 16, 2010, the board of the Eureka Redevelopment Agency Board (the "Agency") and Open Door Community Health Centers (the "Developer" or "ODCHC") entered into an Exclusive Right To Negotiate Agreement (ERTN) to purchase a City owned vacant 1.35 acre parcel (A.P. No 002-191-031) located at the northeast corner of Tydd Street. The parcel was transferred to the City by the Agency pursuant to a property conveyance agreement on March 9<sup>th</sup>, 2011 (the "Conveyance Agreement"). The Conveyance Agreement requires the City to convey the property in accordance with the goals and objectives of the Redevelopment Plan and the provisions of the California Redevelopment Law. The parcel will be combined with other privately owned parcels to assemble the necessary land for a community health center.

*Continued page 2*

**FISCAL IMPACT: AGENCY REVENUE FROM LAND SALE: \$230,000**

**AGENCY EXPENDITURE OF APPROX.: \$214,650 (public improvements)**

**DEPARTMENT HEAD SIGNATURE:**

  
Cindy Trobitz-Thomas  
Redevelopment Director

**CITY MANAGER SIGNATURE:**

  
David W. Tyson  
City Manager

**REVIEWED BY:**

**DATE:**

**INITIALS:**

Assistant City Manager  
Finance

5-12-11  
5-12-11

mk/sh  
pr/sh

**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_

**AGENDA SUMMARY**

<b>RE: REDEVELOPMENT AGENCY DISPOSITION AND DEVELOPMENT AGREEMENT WITH OPEN DOOR COMMUNITY HEALTH CENTERS (AP #002-191-031)</b>	<b>FOR AGENDA DATE: MAY 17, 2011 AGENDA ITEM NO.: Page 2</b>
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**SUMMARY** (continued):

The Developer has recently received a grant under the Affordable Care Act from the Department of Health and Human Services, Health Resources and Services Administration. The grant provides nearly \$10 million for the construction and outfitting of an approximately 27,000 square foot community health center. The grant was awarded on October 1, 2010, with a two year timeline for completion. Under the terms of the grant, the new facility must be operational no later than September 30, 2012.

ODCHC was established as a 501 (c) (3) not-for-profit corporation in 1971, and is the largest provider of primary medical, dental and behavioral health care in Humboldt and Del Norte Counties. ODCHC serves at least one out of every four residents in the two-county area every year; and is the medical home for more than \$50,000 individuals. ODCHC is considered a "safety-net" provider, targeting low-income, uninsured and publicly-insured individuals and families; however, ODCHC has become a choice for residents regardless of economic status. Through its network of 10 clinics, ODCHC provides over 170,000 medical, dental and behavioral health examinations and treatment visits per year.

Among their patients, 30% are uninsured, 50% rely on some form of public insurance (e.g.) Medi-Cal, Medicare); and 60% live below 100% of the federal poverty level.

The federal Department of Health and Human Services, Health Resources and Services Administration has awarded ODCHC \$9,85 million to construct and equip a new primary medical and behavioral health center in Eureka (the "Development"). The new 27,000 square foot facility will more than double the number of patients who can be served in Eureka, increasing clinic capacity to more than 12,000 patients and 50,000 visits annually. The Development will integrate strong design with state-of-the-art diagnostic, telehealth and electronic health record systems.

**CALIFORNIA REDEVELOPMENT LAW REQUIREMENTS**

California Redevelopment Law requires a summary (referred to as a Section 33433 Report and is attached as Exhibit A) of the terms of the proposed land sale and must specify the:

- (1) cost of the agreement to the agency;
- (2) estimated value of the interest to be conveyed determined at the highest uses permitted under the plan;
- (3) estimated value of the interest to be conveyed determined at the use and with the conditions, covenants, and development costs required by the sale, and the purchase price; and
- (4) provide an explanation of why the sale or lease of the property will assist in the elimination of blight.

## AGENDA SUMMARY

**RE: REDEVELOPMENT AGENCY  
DISPOSITION AND DEVELOPMENT  
AGREEMENT WITH OPEN DOOR  
COMMUNITY HEALTH CENTERS  
(AP #002-191-031)**

**FOR AGENDA DATE: MAY 17, 2011  
AGENDA ITEM NO.:  
Page 3**

### SUMMARY (continued):

The following information addresses these requirements:

#### Cost to the Agency:

The cost to the Agency of the DDA and the Development may be considered in two parts, as follows:

##### **a. Cost to Date:**

1. In 2007, the Agency acquired the property from the City for \$125,000 using tax increment revenue.
2. To date the following has been expended: Appraisal \$4,500

##### **b. Future Cost:**

- ✓ Pay up to 50% of the off-site public improvements construction costs not-to-exceed \$65,000.
- ✓ Purchase an easement from a neighboring parcel for the construction of a cul-de-sac not to exceed \$55,400.
- ✓ Construction of "looped" water main (50%) cost sharing; with the Developer's share not to exceed \$50,000.
- ✓ Purchase a right-of-way for the necessary City easements from the **Developer** for road and utility improvements estimated value is \$44,250.

#### Land Value:

California Redevelopment Law requires the Redevelopment Agency Board and the legislative body to adopt a resolution which includes one of the two possible findings regarding land value when approving the land disposition:

(1) that the consideration payable for the property is not less than the fair market value of the property in accordance with the highest and best use under the redevelopment plan; or

(2) that the consideration payable for the property is not less than the reuse value of the property taking into account the uses, covenants, conditions, and development costs required by the sale or lease agreement.

## AGENDA SUMMARY

**RE: REDEVELOPMENT AGENCY  
DISPOSITION AND DEVELOPMENT  
AGREEMENT WITH OPEN DOOR  
COMMUNITY HEALTH CENTERS  
(AP #002-191-031)**

**FOR AGENDA DATE: MAY 17, 2011**  
**AGENDA ITEM NO.:**  
*Page 4*

### **SUMMARY** (continued):

ODCDC is proposing to purchase the property for the fair market value. The fair market value of the property, in accordance with the highest and best use permitted under the redevelopment plan, has been determined to be \$230,000. This figure was determined by an appraisal conducted on 2/3/11 by Brooks Appraisal Service.

### **Elimination of Blight and Other Public Improvements:**

California Redevelopment Law also mandates that the Agency and the legislative body must find that the transaction will assist in the elimination of blight.

The proposed project will comply with this requirement because it is expected to do the following:

1. Improve the project area with improvements that promote economic development of nearby parcels, stimulating the physical revitalization of such parcels.
2. Stimulate physical revitalization in the project area by stimulating economic activity in the project area through assisting a business expansion which will result in retail purchasing by employees (ODCHC estimates hiring an estimated 40 new physicians, nurses and other healthcare professionals and support staff).
3. Due to the access issues, the property has never been developed. Combining the Agency parcel with adjacent privately owned parcels will allow the site to be developed for a the Development. The DDA will cause the property to be developed and contribute to the economic stability of the area.
4. The purchase and redevelopment of the property will double the size and capacity of ODCHC existing medical facilities, allowing expanded access to healthcare for all Eureka residents
5. The transaction contemplated by the Agreement will assist in the elimination of blight; and is consistent with the Agency's Implementation Plan.

### **DISPOSITION AND DEVELOPMENT AGREEMENT TERMS AND CONDITIONS:**

The Disposition and Development Agreement (the "DDA") outlines the negotiated terms and conditions of the proposed sale and development of the property between the Redevelopment Agency and ODCHC. The major terms and conditions are as follows:

## AGENDA SUMMARY

**RE: REDEVELOPMENT AGENCY  
DISPOSITION AND DEVELOPMENT  
AGREEMENT WITH OPEN DOOR  
COMMUNITY HEALTH CENTERS  
(AP #002-191-031)**

**FOR AGENDA DATE: MAY 17, 2011  
AGENDA ITEM No.:  
Page 5**

### SUMMARY (continued):

#### DEVELOPER AND AGENCY RESPONSIBILITIES

- (1) The **Developer** will pay for all off-site improvements adjacent to their property as required By the Eureka Municipal Code; including the bus stop as this benefits their project and reduces the potential traffic generated from the project. ODCHC will pay for project management and design.

The **Agency** will pay up to Pay up to 50% of the off-site public improvements construction costs not-to-exceed \$65,000.

- (2) The **Agency** will purchase an easement from a neighboring parcel for the construction of a cul-de-sac by the **Developer** at the end of Tydd Street (estimated value is \$55,400).
- (3) The **Agency** will purchase as right-of-way for the necessary City easements from the **Developer** for road and utility improvements (estimated value is \$44,250)
- (3) As a condition of approval, the **Developer** is required to provide fire flows for the project as required by the Eureka Fire Department.

The **City** agrees to share in the cost of the installation of a "looped" water main which would be beneficial to the Developer as well as the City's water system in general. The **City** is committed to a fifty percent (50%) cost sharing; with the **Developer's** share not to exceed \$50,000.

- (4) **Developer** will construct the development in accordance with the Redevelopment Plan and Development Plan as required in the DDA.
- (5) The **City** will sell the Property to the Developer for \$230,000 (Fair Market Value).

The **Developer** will purchase the property from the City for \$230,000 (Fair Market Value)



**AGENDA SUMMARY**

<b>RE: REDEVELOPMENT AGENCY DISPOSITION AND DEVELOPMENT AGREEMENT WITH OPEN DOOR COMMUNITY HEALTH CENTERS (AP #002-191-031)</b>	<b>FOR AGENDA DATE: MAY 17, 2011 AGENDA ITEM No.: Page 6</b>
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**SUMMARY** (continued):

Under Health & Safety Code Section 33445 the Agency may pay for the cost of constructing public improvements if the Agency and the City determine, by resolution, that such public improvements are of benefit to the project area by helping to eliminate blight within the project area, no other reasonable means of financing the public improvements are available to the community, and are consistent with the implementation plan. Here, the public improvements will be of benefit to the project area because, among other things, the project area will obtain a newly constructed bus stop and other public improvements. These public improvements are a necessary component of the Development, and without the completion of these improvements, the Development would not move forward. The City has agreed to fund a portion of the looped water main (which will also benefit the project area), and the Developer is funding all of the other costs for the public improvements that it can pay. However, there are no other funds available to pay for the remaining costs of the public improvements available for any source. In particular, the City has no other funding source to cover these costs, and the Developer's funding will only cover the cost of constructing the Development and a portion of the off-site public improvements. Without the Agency's funding these necessary public improvements would not be completed, and, thus, the overall Development could not be completed.

**BENEFITS TO THE CITY/AGENCY**

The construction of the Development will have a positive impact on the City and Agency. The following benefits are expected to be realized:

- (1) **Job Creation**—Doubling the clinic staff and payroll by hiring an estimated 40 new physicians, nurses and other healthcare professionals and support staff.
- (2) **Quality of Life**—the Development will double the size and capacity of the ODCHC's existing medical facilities and will provide expanded access to healthcare for all Eureka residents in a state of the art facility in a beautiful location. The Development will also incorporate recreational and wellness amenities into service plans.
- (3) **Economic**--provides an essential service to Redevelopment Project Area residents and businesses. The development of the vacant lot will contribute to the economic stability of the area.

## AGENDA SUMMARY

**RE: REDEVELOPMENT AGENCY  
DISPOSITION AND DEVELOPMENT  
AGREEMENT WITH OPEN DOOR  
COMMUNITY HEALTH CENTERS  
(AP #002-191-031)**

**FOR AGENDA DATE: MAY 17, 2011  
AGENDA ITEM NO.:  
*Page 7***

**SUMMARY** (continued):

**RECOMMENDATION:**

The Developer has complied with the Terms and Conditions of the ERTN and has agreed to the following terms of the sale and the other obligations set forth in the DDA:

**Purchase Price: \$230,000**

Staff recommends the following:

1. Hold a Public Hearing to receive input on the proposed property sale.
2. Adopt Resolutions of the Redevelopment Agency and City Council approving a Disposition and Development Agreement with Open Door Community Health Centers for the purchase of Assessor Parcel No# 002-191-031.
3. Authorize execution of a Disposition and Development Agreement with Open Door Community Health Centers

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE EUREKA REDEVELOPMENT AGENCY;  
MAKING CERTAIN FINDINGS REQUIRED BY THE HEALTH AND SAFETY CODE  
SECTION 33445, AND SECTION 33433 WITH RESPECT TO CONSIDERATION TO  
BE RECEIVED BY THE AGENCY, APPROVING THE SALE OF CERTAIN  
REAL PROPERTY IN THE EUREKA TOMORROW PROJECT AREA,  
APPROVING THE DISPOSITION AND DEVELOPMENT AGREEMENT  
PERTAINING THERETO, AND AUTHORIZING THE EXECUTION OF SAID  
DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE AGENCY  
AND OPEN DOOR COMMUNITY HEALTH CENTERS**

WHEREAS, the City Council of the City of Eureka (the "City") on December 4, 1973 adopted the Eureka Tomorrow Redevelopment Plan (the "Redevelopment Plan"); and

WHEREAS, the Eureka Redevelopment Agency (the "Agency") is engaged in activities necessary to execute and implement the Redevelopment Plan; and

WHEREAS, the City owns a parcel of real property within the Project Area (the "Property") that was transferred to the City by the Agency pursuant to a property conveyance agreement requiring the City to convey the property in accordance with the goals and objectives of the Redevelopment Plan and the provisions of the California Redevelopment Law (the "Law").

WHEREAS, in order to implement the Redevelopment Plan, the City proposes to sell certain real property (the "Property") in the Project Area, pursuant to the terms and provisions of a Disposition and Development Agreement (the "Agreement") and which Property is described in the attached Exhibit "A" and incorporated herein by reference; and

WHEREAS, Open Door Community Health Centers (the "Developer") desires to develop on the Property, and certain other real property adjacent to the Property, an approximately 27,000 square foot community health clinic and related on-site and off-site improvements (collectively, the "Improvements"); and

WHEREAS, the Developer has submitted to the Agency a written offer in the form of said Agreement to purchase the Property for fair market value for uses in accordance with the Redevelopment Plan and the covenants and conditions of said Agreement; and

WHEREAS, the Developer possess the qualifications and financial resources necessary to insure the purchase of the Property in accordance with the purposes and objectives of the Redevelopment Plan; and

WHEREAS, pursuant to the provisions of the California Community Redevelopment Law (the "Law"), the City and the Agency have held a joint public hearing on the proposed sale of the Property and the proposed Agreement after publication of notice required by State law; and

WHEREAS, a summary has been prepared and considered by the City Council and the Agency to substantiate the findings required by Health and Safety Code Section 33433 and Section 33445 of the Law (the "Summary"-- a copy of which is attached to this Resolution as Exhibit "B"), and made in this Resolution; and

WHEREAS, the City and the Agency have duly considered all terms and conditions of the proposed sale and believe that the redevelopment of the Property pursuant to the proposed sale and pursuant to the proposed Agreement is in the best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local law and requirements;

WHEREAS, a Mitigated Negative Declaration for the development contemplated by this Agreement was certified and approved by the Agency and City on March 15, 2011, after duly noticed public hearings consistent with the provisions of CEQA; and

WHEREAS, the City Council of the City made the required findings pursuant to Section 33433 and Section 33445 of the Law by Resolution on May 17, 2011; and

NOW THEREFORE, based on information presented to the City Council and the Agency Board, including the information provided in the Summary, and in compliance with the requirements of Section 33433 and Section 33445 of the Law, the Agency hereby resolves as follows:

1. All of the above recitals are true and correct, and the City and Agency has based the findings and actions set forth in this Resolution, in part, on such recitals.
2. The attached Exhibit B is incorporated in this Resolution by this reference.
3. The Agency finds that the consideration payable for the Property is not less than the fair market value of the Property in accordance with the best and highest use under the Redevelopment Plan, and that the transaction contemplated by the Agreement will assist in elimination of blight; and is consistent with the Agency's Implementation Plan.
4. The Agency finds that based on the information set forth in the staff report accompanying this resolution the public improvements to be funded by the Agency are of benefit to the Project Area by helping to eliminate blight within the Project Area, that there is no other reasonable means of financing such public improvements available to the community, and that these improvements are consistent with the Agency's Implementation Plan.
5. The Agency approves the Agreement and authorizes the Agency Executive Director to sign the Agreement and related documents in substantially the form before the Agency, with such minor revisions as the Agency Executive Director may deem necessary and appropriate, and to perform all acts and sign all documents necessary to implement the Agreement pursuant to its terms and facilitate the development of the Improvements.

6. The Agency hereby allocates the funds necessary for the Agency to pay for its obligations under the Agreement, and the Agency budget is hereby amended to provide for such allocation.
7. This Resolution shall take immediate effect from and after its passage and approval.

THIS RESOLUTION IS HEREBY PASSED, APPROVED AND ADOPTED by the Eureka Redevelopment Agency in the County of Humboldt, State of California, on the 17th day of May, 2011, by; the following vote:

AYES:	BOARDMEMBERS
NOES:	BOARDMEMBERS
ABSENT:	BOARDMEMBERS
ABSTAIN:	BOARDMEMBERS

\_\_\_\_\_  
Frank J. Jäger, Chairman

*Attest:*

\_\_\_\_\_  
Pamela J. Powell, Executive Secretary

*Approved as to Administration:*

*Approved as to form:*

\_\_\_\_\_  
David W. Tyson, Executive Director

\_\_\_\_\_  
William R. Bragg, Interim Agency Attorney

## **EXHIBIT A**

### **PROPERTY DESCRIPTION ASSESSOR'S PARCEL NO. 002-191-031**

All that real property, situate in the City of Eureka, County of Humboldt, State of California, described as:

Parcel 1 as shown on the Record of Survey recorded on September 4, 1986 in Book 46 of Surveys, Page 17, Humboldt County Records.

Together with a variable width easement for ingress, egress and public utilities over a strip of land described as follows:

Beginning at the Northeast Corner of said Parcel 1; thence along the North Line of said Parcel 1 South 89° 24' 55" West, 370.13 feet to the most Westerly Corner of said Parcel 1;

Thence along a portion of the boundary of Parcel 2 as shown on said Record of Survey North 48° 00' 00" West, 33.99 feet to an angle point thereon;

Thence continuing along the boundary of said Parcel 2 South 89° 24' 55" West, 161.36 feet to Tydd Street;

Thence along Tydd Street North 42° 00' 00" East, 16.30 feet to the Quarter Section Line running East and West through the Center of Section 23, Township 5 North, Range 1 West, Humboldt Meridian;

Thence along said Quarter Section Line North 89° 24' 55" East, 545.55 feet to a point that bears North 0° 28' 43" West from Point of Beginning;

Thence South 0° 28' 43" East, 35.00 feet, more or less, to the Point of Beginning.

## **EXHIBIT B**

### **SUMMARY OF PROPOSED DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE EUREKA REDEVELOPMENT AGENCY, THE CITY OF EUREKA AND OPEN DOOR COMMUNITY HEALTH CENTERS**

**(Prepared pursuant to Health and Safety Code Section 33433)**

#### **I. BACKGROUND AND PURPOSE**

On May 17, 2011, a joint public hearing of the City Council and Redevelopment Agency will be held regarding the approval of a Disposition and Development Agreement (the "DDA") between the Eureka Redevelopment Agency (the "AGENCY"), the City of Eureka (the "CITY") and Open Door Community Health Centers (the "DEVELOPER"). The AGENCY and DEVELOPER executed an Exclusive Right To Negotiate Agreement on November 16, 2010 to negotiate the terms and conditions of an agreement for the purchase of +/- 1.35 acres by the DEVELOPER of the AGENCY owned land, located within the Eureka Tomorrow Project Area east of Tydd Street (Assessor Parcel No's 002-191-031) as more particularly described in Exhibit A attached to this report (the "PROPERTY"). The DDA provides the negotiated terms and conditions of the sale of the Property and construction of improvements. The DEVELOPER will own the Property and the new improvements to be constructed on the Property.

This Summary has been prepared and made available to the public in accordance with the requirements of Health and Safety Code Section 33433, which requires provision of the following information:

(1) the cost of the DDA to the AGENCY, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the AGENCY, and the cost of the expected interest on any loans or bonds to finance the AGREEMENT. Please refer to Section VI of this Summary for information on AGENCY costs of the DDA.

(2) the estimated value of the property to be conveyed to the DEVELOPER pursuant to the terms of the DDA, determined under the highest and best uses permitted under the Redevelopment Plan for the Eureka Tomorrow Redevelopment Project Area, adopted by City Council Ordinance No. 224-C.S., dated December 4, 1973 (the "REDEVELOPMENT PLAN"). Please refer to Section VII of this Summary for information concerning the highest and best use value of the PROPERTY.

(3) an explanation of why the sale and redevelopment of the PROPERTY pursuant to the DDA will assist in the elimination of blight, with reference to all supporting facts and materials relied upon in making this explanation. Please refer to Section V of this Summary for information regarding the manner in which the sale and redevelopment of this PROPERTY will eliminate blight, as well as a description of other public benefits that will be achieved through execution and implementation of the DDA.

In addition to the statutorily required information, this Summary also provides as background information a description of the development to be undertaken pursuant to the DDA and an outline of the DEVELOPER, AGENCY and the CITY responsibilities under the DDA (Sections III and IV respectively).

## **II DESCRIPTION OF PROJECT**

A. The CITY will sell the PROPERTY to the DEVELOPER to develop on the Property, and certain other real property adjacent to the Property, an approximately 27,000 square foot community health clinic and related on-site and off-site improvements (collectively, the "Improvements").

The DEVELOPER intends to develop the PROPERTY in accordance with the REDEVELOPMENT PLAN and the DEVELOPMENT as discussed more fully in the DDA.

## **III DEVELOPER RESPONSIBILITIES**

a. The DEVELOPER will provide all pre-development services necessary to prepare the PROPERTY for development,

b. The DEVELOPER will pay for all off-site improvements adjacent to the PROPERTY as required by the Eureka Municipal Code; including the bus stop as this benefits their project and reduces the potential traffic generated from the project. ODCHC will pay for project management and design.

c. The DEVELOPER will construct a cul-de-sac at the end of Tydd Street.

d. As a condition of approval, the DEVELOPER is required to provide fire flows for the project as required by the Eureka Fire Department.

e. DEVELOPER will construct the Improvements in accordance with the plans submitted and approved by the AGENCY and the CITY.

f. The DEVELOPER will purchase the PROPERTY from the CITY for the fair market price of Two Hundred Thirty Thousand Dollars (\$230,000) (as more fully set forth in Section VII of this Summary).

## **IV AGENCY/CITY RESPONSIBILITIES**

a. The CITY will sell the PROPERTY, to the DEVELOPER for Two Hundred Thirty Thousand Dollars (\$230,000).



b. The AGENCY will pay up to 50% of the off-site public improvements construction costs not-to-exceed \$65,000.

c. The AGENCY will purchase an easement from a neighboring parcel for the construction of a cul-de-sac by the DEVELOPER at the end of Tydd Street (estimated value is \$55,400).

d. The AGENCY will purchase as right-of-way for the necessary City easements from the DEVELOPER for road and utility improvements (estimated value is \$44,250)

e. The CITY agrees to share in the cost of the installation of a "looped" water main which would be beneficial to the Developer as well as the City's water system in general. The CITY is committed to a fifty percent (50%) cost sharing; with the DEVELOPER'S share not to exceed \$50,000.

f. The AGENCY will sell the PROPERTY to the DEVELOPER for \$230,000 (Fair Market Value).

## **V ELIMINATION OF BLIGHT AND OTHER PUBLIC BENEFITS**

The purchase and redevelopment of the PROPERTY pursuant to the DDA will assist in the elimination of one or more blighting conditions and provide other public benefits inside the PROJECT AREA because it will do the following:

1. Improve the PROJECT AREA with improvements that promote economic development of nearby parcels, stimulating the physical revitalization of such parcels.
2. Stimulate physical revitalization in the project area by stimulating economic activity in the PROJECT AREA through assisting a business expansion which will result in retail purchasing by employees (ODCHC estimates hiring an estimated 40 new physicians, nurses and other healthcare professionals and support staff).
3. Due to the access issues, the property has never been developed. Combining the CITY parcel with adjacent privately owned parcels will allow the site to be developed for a community health center. The DDA will cause the property to be developed and contribute to the economic stability of the area.
4. The purchase and redevelopment of the property will double the size and capacity of ODCHC existing medical facilities, allowing expanded access to healthcare for all Eureka residents
5. The transaction contemplated by the Agreement will assist in the elimination of blight; and is consistent with the Agency's Implementation Plan.

## **VI     ESTIMATED PUBLIC COSTS**

The cost to the AGENCY of the DDA and the DEVELOPMENT may be considered in two parts, as follows:

### **Cost to the Agency:**

#### **a.     Cost to Date:**

1. In 2007, the AGENCY acquired the property from the CITY for \$125,000 using tax increment revenue.
2. To date the following has been expended: Appraisal \$4,500

#### **b.     Future Cost:**

- ✓ Pay up to 50% of the off-site public improvements construction costs not-to-exceed \$65,000.
- ✓ Purchase an easement from a neighboring parcel for the construction of a cul-de-sac not to exceed \$55,400.
- ✓ Construction of “looped” water main (50%) cost sharing; with the DEVELOPER’S share not to exceed \$50,000.
- ✓ Purchase a right-of-way for the necessary CITY easements from the DEVELOPER for road and utility improvements estimated value is \$44,250.

## **VII    ESTIMATED VALUE OF PROPERTY AT HIGHEST AND BEST USE**

The estimated fair market value of the PROPERTY has been determined at the highest and best use permitted under the REDEVELOPMENT PLAN to be \$230,000 for 1.35 acres. This figure was determined by an appraisal conducted on 2/3/11 by Brooks Appraisal Service (the “APPRAISAL”). The APPRAISAL is incorporated into this Report by this reference. A copy of the appraisal is available at the Agency.

## **RESOLUTION NO.**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA; MAKING CERTAIN FINDINGS REQUIRED BY THE HEALTH AND SAFETY CODE SECTION 33445, AND SECTION 33433 WITH RESPECT TO CONSIDERATION TO BE RECEIVED BY THE AGENCY, APPROVING THE SALE OF CERTAIN REAL PROPERTY IN THE EUREKA TOMORROW PROJECT AREA, APPROVING THE DISPOSITION AND DEVELOPMENT AGREEMENT PERTAINING THERETO, AND AUTHORIZING THE EXECUTION OF SAID DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE AGENCY AND OPEN DOOR COMMUNITY HEALTH CENTERS**

WHEREAS, the City Council of the City of Eureka (the "City") on December 4, 1973 adopted the Eureka Tomorrow Redevelopment Plan (the "Redevelopment Plan"); and

WHEREAS, The Eureka Redevelopment Agency (the "Agency") is engaged in activities necessary to execute and implement the Redevelopment Plan; and

WHEREAS, The City owns a parcel of real property within the Project Area (the "Property") that was transferred to the City by the Agency pursuant to a property conveyance agreement requiring the City to convey the property in accordance with the goals and objectives of the Redevelopment Plan and the provisions of the California Redevelopment Law (the "Law"); and.

WHEREAS, in order to implement the Redevelopment Plan, the City proposes to sell certain real property (the "Property") in the Project Area, pursuant to the terms and provisions of a Disposition and Development Agreement (the "Agreement") and which Property is described in the attached Exhibit "A" and incorporated herein by reference; and

WHEREAS, Open Door Community Health Centers (the "Developer") desires to develop on the Property, and certain other real property adjacent to the Property, an approximately 27,000 square foot community health clinic and related on-site and off-site improvements (collectively, the "Improvements"); and

WHEREAS, the Developer has submitted to the Agency a written offer in the form of said Agreement to purchase the Property for fair market value for uses in accordance with the Redevelopment Plan and the covenants and conditions of said Agreement; and

WHEREAS, the Developer possess the qualifications and financial resources necessary to insure the purchase of the Property in accordance with the purposes and objectives of the Redevelopment Plan; and

WHEREAS, pursuant to the provisions of the California Community Redevelopment Law (the "Law"), the City and the Agency have held a joint public hearing on the proposed sale of the Property and the proposed Agreement after publication of notice required by State law; and

WHEREAS, a summary has been prepared and considered by the City Council and the Agency to substantiate the findings required by Health and Safety Code Section 33433 and Section 33445 of the Law (the "Summary"-- a copy of which is attached to this Resolution as Exhibit "B"), and made in this Resolution; and

WHEREAS, the City and the Agency have duly considered all terms and conditions of the proposed sale and believe that the redevelopment of the Property pursuant to the proposed sale and pursuant to the proposed Agreement is in the best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local law and requirements;

WHEREAS, a Mitigated Negative Declaration for the development is contemplated by this Agreement was certified and approved by the Agency and City on March 15, 2011, after duly noticed public hearings consistent with the provisions of CEQA; and

WHEREAS, the Redevelopment Agency Board made the required findings pursuant to Section 33433 and Section 33445 of the Law by Resolution on May 17, 2011; and

NOW THEREFORE, based on information presented to the City Council and the Agency Board, including the information provided in the Summary, and in compliance with the requirements of Section 33433 and Section 33445 of the Law, the City Council hereby resolves as follows:

1. All of the above recitals are true and correct, and the City and Agency has based the findings and actions set forth in this Resolution, in part, on such recitals.
2. The attached Exhibit B is incorporated in this Resolution by this reference.
3. The City and Agency finds that the consideration payable for the Property is not less than the fair market value of the Property in accordance with the best and highest use under the Redevelopment Plan, and that the transaction contemplated by the Agreement will assist in elimination of blight, and is consistent with the Agency's Implementation Plan.
4. The City finds that based on the information set forth in the staff report accompanying this resolution the public improvements to be funded by the Agency are of benefit to the Project Area by helping to eliminate blight within the Project Area, that there is no other reasonable means of financing such public improvements available to the community, and that these improvements are consistent with the Implementation Plan.
5. The City approves the Agreement.

6 This Resolution shall take immediate effect from and after its passage and approval.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the 17th day of May, 2011 by the following vote:

AYES:	COUNCILMEMBERS
NOES:	COUNCILMEMBERS
ABSENT:	COUNCILMEMBERS
ABSTAIN:	COUNCILMEMBERS

\_\_\_\_\_  
Frank J. Jäger, Mayor of the City of Eureka

*Attest:*

\_\_\_\_\_  
Pamela J. Powell, City Clerk

*Approved as to Administration:*

*Approved as to form:*

\_\_\_\_\_  
David W. Tyson, City Manager

\_\_\_\_\_  
William R. Bragg, Interim City Attorney

## **EXHIBIT A**

### **PROPERTY DESCRIPTION**

**ASSESSOR'S PARCEL NO. 002-191-031**

All that real property, situate in the City of Eureka, County of Humboldt, State of California, described as:

Parcel 1 as shown on the Record of Survey recorded on September 4, 1986 in Book 46 of Surveys, Page 17, Humboldt County Records.

Together with a variable width easement for ingress, egress and public utilities over a strip of land described as follows:

Beginning at the Northeast Corner of said Parcel 1; thence along the North Line of said Parcel 1 South 89° 24' 55" West, 370.13 feet to the most Westerly Corner of said Parcel 1;

Thence along a portion of the boundary of Parcel 2 as shown on said Record of Survey North 48° 00' 00" West, 33.99 feet to an angle point thereon;

Thence continuing along the boundary of said Parcel 2 South 89° 24' 55" West, 161.36 feet to Tydd Street;

Thence along Tydd Street North 42° 00' 00" East, 16.30 feet to the Quarter Section Line running East and West through the Center of Section 23, Township 5 North, Range 1 West, Humboldt Meridian;

Thence along said Quarter Section Line North 89° 24' 55" East, 545.55 feet to a point that bears North 0° 28' 43" West from Point of Beginning;

Thence South 0° 28' 43" East, 35.00 feet, more or less, to the Point of Beginning.

## **EXHIBIT B**

### **SUMMARY OF PROPOSED DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE EUREKA REDEVELOPMENT AGENCY, THE CITY OF EUREKA AND OPEN DOOR COMMUNITY HEALTH CENTERS**

**(Prepared pursuant to Health and Safety Code Section 33433)**

#### **I. BACKGROUND AND PURPOSE**

On May 17, 2011, a joint public hearing of the City Council and Redevelopment Agency will be held regarding the approval of a Disposition and Development Agreement (the "DDA") between the Eureka Redevelopment Agency (the "AGENCY"), the City of Eureka (the "CITY") and Open Door Community Health Centers (the "DEVELOPER"). The AGENCY and DEVELOPER executed an Exclusive Right To Negotiate Agreement on November 16, 2010 to negotiate the terms and conditions of an agreement for the purchase of +/- 1.35 acres by the DEVELOPER of the AGENCY owned land, located within the Eureka Tomorrow Project Area east of Tydd Street (Assessor Parcel No's 002-191-031) as more particularly described in Exhibit A attached to this report (the "PROPERTY"). The DDA provides the negotiated terms and conditions of the sale of the Property and construction of improvements. The DEVELOPER will own the Property and the new improvements to be constructed on the Property.

This Summary has been prepared and made available to the public in accordance with the requirements of Health and Safety Code Section 33433, which requires provision of the following information:

(1) the cost of the DDA to the AGENCY, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the AGENCY, and the cost of the expected interest on any loans or bonds to finance the AGREEMENT. Please refer to Section VI of this Summary for information on AGENCY costs of the DDA.

(2) the estimated value of the property to be conveyed to the DEVELOPER pursuant to the terms of the DDA, determined under the highest and best uses permitted under the Redevelopment Plan for the Eureka Tomorrow Redevelopment Project Area, adopted by City Council Ordinance No. 224-C.S., dated December 4, 1973 (the "REDEVELOPMENT PLAN"). Please refer to Section VII of this Summary for information concerning the highest and best use value of the PROPERTY.

(3) an explanation of why the sale and redevelopment of the PROPERTY pursuant to the DDA will assist in the elimination of blight, with reference to all supporting facts and materials relied upon in making this explanation. Please refer to Section V of this Summary for information regarding the manner in which the sale and redevelopment of this PROPERTY will eliminate blight, as well as a description of other public benefits that will be achieved through execution and implementation of the DDA.

In addition to the statutorily required information, this Summary also provides as background information a description of the development to be undertaken pursuant to the DDA and an outline of the DEVELOPER, AGENCY and the CITY responsibilities under the DDA (Sections III and IV respectively).

## **II DESCRIPTION OF PROJECT**

A. The CITY will sell the PROPERTY to the DEVELOPER to develop on the Property, and certain other real property adjacent to the Property, an approximately 27,000 square foot community health clinic and related on-site and off-site improvements (collectively, the "Improvements").

The DEVELOPER intends to develop the PROPERTY in accordance with the REDEVELOPMENT PLAN and the DEVELOPMENT as discussed more fully in the DDA.

## **III DEVELOPER RESPONSIBILITIES**

a. The DEVELOPER will provide all pre-development services necessary to prepare the PROPERTY for development,

b. The DEVELOPER will pay for all off-site improvements adjacent to the PROPERTY as required by the Eureka Municipal Code; including the bus stop as this benefits their project and reduces the potential traffic generated from the project. ODCHC will pay for project management and design.

c. The DEVELOPER will construct a cul-de-sac at the end of Tydd Street.

d. As a condition of approval, the DEVELOPER is required to provide fire flows for the project as required by the Eureka Fire Department.

e. DEVELOPER will construct the Improvements in accordance with the plans submitted and approved by the AGENCY and the CITY.

f. The DEVELOPER will purchase the PROPERTY from the CITY for the fair market price of Two Hundred Thirty Thousand Dollars (\$230,000) (as more fully set forth in Section VII of this Summary).

## **IV AGENCY/CITY RESPONSIBILITIES**

a. The CITY will sell the PROPERTY, to the DEVELOPER for Two Hundred Thirty Thousand Dollars (\$230,000).



b. The AGENCY will pay up to 50% of the off-site public improvements construction costs not-to-exceed \$65,000.

c. The AGENCY will purchase an easement from a neighboring parcel for the construction of a cul-de-sac by the DEVELOPER at the end of Tydd Street (estimated value is \$55,400).

d. The AGENCY will purchase as right-of-way for the necessary City easements from the DEVELOPER for road and utility improvements (estimated value is \$44,250)

e. The CITY agrees to share in the cost of the installation of a "looped" water main which would be beneficial to the Developer as well as the City's water system in general. The CITY is committed to a fifty percent (50%) cost sharing; with the DEVELOPER'S share not to exceed \$50,000.

f. The AGENCY will sell the PROPERTY to the DEVELOPER for \$230,000 (Fair Market Value).

## **V ELIMINATION OF BLIGHT AND OTHER PUBLIC BENEFITS**

The purchase and redevelopment of the PROPERTY pursuant to the DDA will assist in the elimination of one or more blighting conditions and provide other public benefits inside the PROJECT AREA because it will do the following:

1. Improve the PROJECT AREA with improvements that promote economic development of nearby parcels, stimulating the physical revitalization of such parcels.
2. Stimulate physical revitalization in the project area by stimulating economic activity in the PROJECT AREA through assisting a business expansion which will result in retail purchasing by employees (ODCHC estimates hiring an estimated 40 new physicians, nurses and other healthcare professionals and support staff).
3. Due to the access issues, the property has never been developed. Combining the CITY parcel with adjacent privately owned parcels will allow the site to be developed for a community health center. The DDA will cause the property to be developed and contribute to the economic stability of the area.
4. The purchase and redevelopment of the property will double the size and capacity of ODCHC existing medical facilities, allowing expanded access to healthcare for all Eureka residents
5. The transaction contemplated by the Agreement will assist in the elimination of blight; and is consistent with the Agency's Implementation Plan.

## **VI     ESTIMATED PUBLIC COSTS**

The cost to the AGENCY of the DDA and the DEVELOPMENT may be considered in two parts, as follows:

### **Cost to the Agency:**

#### **a.     Cost to Date:**

1. In 2007, the AGENCY acquired the property from the CITY for \$125,000 using tax increment revenue.
2. To date the following has been expended: Appraisal \$4,500

#### **b.     Future Cost:**

- ✓ Pay up to 50% of the off-site public improvements construction costs not-to-exceed \$65,000.
- ✓ Purchase an easement from a neighboring parcel for the construction of a cul-de-sac not to exceed \$55,400.
- ✓ Construction of "looped" water main (50%) cost sharing; with the DEVELOPER'S share not to exceed \$50,000.
- ✓ Purchase a right-of-way for the necessary CITY easements from the DEVELOPER for road and utility improvements estimated value is \$44,250.

## **VII    ESTIMATED VALUE OF PROPERTY AT HIGHEST AND BEST USE**

The estimated fair market value of the PROPERTY has been determined at the highest and best use permitted under the REDEVELOPMENT PLAN to be \$230,000 for 1.35 acres. This figure was determined by an appraisal conducted on 2/3/11 by Brooks Appraisal Service (the "APPRAISAL"). The APPRAISAL is incorporated into this Report by this reference. A copy of the appraisal is available at the Agency.

5

MINUTES OF  
EUREKA CITY COUNCIL  
EUREKA REDEVELOPMENT AGENCY

April 19, 2011

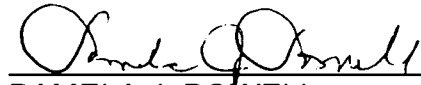
The City Council/Redevelopment Agency of the City of Eureka met in REGULAR Session on the above date, 5:00 P.M. Closed Session, 6:00 P.M. Open Session, at the Eureka City Hall, Council Chambers, 531 "K" Street, Eureka.

PRESIDING: MAYOR JÄGER

PRESENT: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN


ABSENT: NONE

MINUTES PREPARED BY:



PAMELA J. POWELL  
City Clerk

COUNCIL APPROVAL ACKNOWLEDGED:



FRANK JÄGER  
Mayor

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Public comment prior to closed session

ACTION:

No one expressed an interest in addressing the Council at this time.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item A

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Closed session

ACTION:

Council met in closed session to discuss the following matters:

Conference with labor negotiators

Agency designated representatives: Gary M. Bird for City of Eureka

Employee organization: Eureka Firefighters' Local #652 (EFL) and Eureka Fire Officers Local (EFOL).

Conference with real property negotiators - Property: City-owned property located at 2186 Tydd Street, APN's: 002-191-0202 and 002-191-013

Agency negotiator: David W. Tyson for the City of Eureka

Negotiating parties: Humboldt Open Door Clinic

Under negotiation: Price, terms and conditions.

Conference with real property negotiators - Property: APN 001-054-45 and 001-054-13

Agency negotiator: David W. Tyson for the City of Eureka

Negotiating Parties: Eureka Waterfront Partners

Under negotiation: price, terms, and conditions

Upon reconvening to Open Session, it was announced that there were no final actions to report.


Agenda Item Closed Session

MINUTE ORDER, April 19, 2011  
ITEM: Closed Session  
PAGE: 2

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item Closed Session

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Mayor's announcements

ACTION:

Mayor Jäger invited Cal Trans representatives Heidi Quintrell and Richard Mull to present the Broadway and 5<sup>th</sup> Street paving project to Council.

Councilmember Ciarabellini, on behalf of Mayor Jäger, presented a proclamation for Peace Officer's Memorial Day- May 2, 2011.

Mayor Jäger presented a proclamation for Lemonade Day – June 4, 2011.

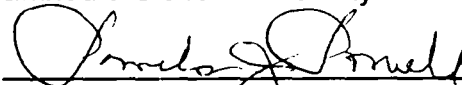
Mayor Jäger asked that Interim Fire Chief Bill Gillespie read a tribute regarding Public Safety Dispatchers.

Mayor Jäger announced that the City of Eureka currently has a number of vacancies on Boards and Commissions. If there are interested citizens, please submit your application to the Clerk's office.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.



PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item M/A

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Board/Commission reports

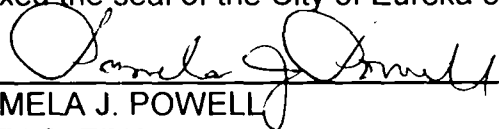
ACTION:

Charlotte McDonald of Keep Eureka Beautiful recognized the men of Eureka Rescue Mission for their work in maintaining and cleaning the Old Town area.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item B/C



CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Public Hearing – Schneider Cargo Storage Area Coastal Development Permit.

ACTION:

Interim Community Development Director, Lisa Shikany and Assistant Planner, Kristen Goetz provided a report.

The public hearing was opened at 6:37 P.M. The following individuals addressed the council regarding this subject matter:

Daniel Pearce, McKinleyville  
Damien Mooney, President, Longshoremen's union.  
Tina Christensen, Agent for the applicant  
Thomas Stewart, Eureka

The public hearing was closed at 6:47 P.M. David Schneider, applicant was requested by Council to answer questions.

Council adopted the Findings of Fact as listed below:

1. The project site is located in the California Coastal Zone and a Coastal Development Permit is required. The City of Eureka has permit jurisdiction for issuing the Coastal Development Permit, and the City's final action on the Coastal Development Permit is appealable to the State Coastal Commission.

2. A Coastal Development Permit is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); however, this project qualifies for a Class 1 exemption (Section 15301) from CEQA which exempts the minor alteration of existing facilities.

3. Under the adopted Land Use Plan, the General Plan portion of the Local Coastal Program, the project site has a General Plan Land Use designation of Coastal-Dependent Industrial (CDI).

4. The purpose of the CDI Land Use Designation is to promote development of coastal-dependent industrial uses along the City's waterfront and reuse vacant land in the Westside Industrial area.

MINUTE ORDER, April 19, 2011

ITEM: 1

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5. The proposed project is supported by several goals and policies of the City of Eureka General Plan, including those relating to Land Use and Development, Commercial Development and Industrial Development.

6. The property has a Zoning designation of Coastal Dependent Industrial (MC). The MC zone district specifically permits "Water borne carrier import and export" as a principally permitted use. Therefore, the proposed cargo storage facility is consistent with the MC Zoning Designation and the Coastal Zone Development Standards of the Implementation Plan.

7. No issues were identified by referral departments or agencies that would indicate that the project as conditioned would not be consistent with the Local Coastal Plan and Zoning regulations.

And the Conditions of Approval as listed below:

**Approval of the Coastal Development Permit is conditioned on the following terms and requirements. The violation of any term or requirement of this conditional approval may result in the revocation of the permit.**

1. During any necessary grading, or installation of fire access lanes, should buried archeological or historical resources be encountered all work will temporarily stop in the immediate area, and a qualified archeologist, and the Wiyot Tribe, will be contacted to evaluate the materials. Prehistoric materials may include chert flakes, tools, locally-darkened midden soils, ground stone artifacts, dietary bone, and human burials. If human burial is discovered during construction operations, State law requires that the County Coroner be contacted immediately. If such remains are found to be those of a Native American, the California Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains.

2. No cargo shall be stored at any time within 6 vertical and horizontal feet of any overhead utility line to the satisfaction of Pacific Gas and Electric.

3. Prior to Building Permit issuance, if required, or Design Review, whichever is later, a 10 foot wide vehicular access easement along the northeasterly property line from the northerly Fire access gates shall be recorded to allow access to the utility poles and overhead lines. No cargo or future structures shall be located within this easement area. This condition shall be completed to the satisfaction of Pacific Gas and Electric, the City Engineering Department, and Community Development.

MINUTE ORDER, April 19, 2011

ITEM: 1

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4. At the time of installation of any gates on the property, Pacific Gas and Electric shall be allowed to place their lock on all gates to allow access to the utility poles or overhead lines for maintenance or repairs. This condition shall be completed to the satisfaction of Pacific Gas and Electric.

5. Prior to Building Permit issuance, if required, or Design Review, whichever is later, a 10 foot wide Public Utility Easement (PUE) shall be recorded along the southeasterly property line parallel with West Waterfront Drive. No ~~large or~~ future structures shall be located within this easement area. This condition shall be completed to the satisfaction of the City Engineering Department and Community Development.

6. No gates or other obstructions shall be placed on the public street (Marina Way) unless or until Marina Way is vacated, and shall then be placed only as subject to any conditions of approval required by the Street Vacation.

7. Access for fire-fighting operations shall be provided by means of fire lanes and/or access roads spaced at intervals so that no portion of any storage or parking area is over 50 feet from a fire lane. Specifications and locations of fire lanes and access roads shall be determined by the Fire Department.

8. Prior to use of the property for storage, fire lanes and/or access roads shall be constructed of gravel, asphalt, concrete, or other approved surface to support an imposed load of a fire apparatus weighing at least 75,000 pounds. This condition shall be completed to the satisfaction of the Fire Department, Public Works, Engineering, and Building Departments.

9. Prior to use of the property for storage, fence gates shall be provided at locations prescribed by the Fire Department to access fire lanes/access roads. Gates shall comply with EMC section 92.02 D103.5.

10. Storage in excess of five containers height shall be permitted only with the prior authorization of the Fire Department. Improved access may be required, including but not limited to, wider access roadways through the facility to allow aerial support.

11. Northwest access to the existing facilities from the south end of Marina Way shall be maintained at all times to the satisfaction of the Fire Department.

12. Prior to utilizing the property for storage, a new fire hydrant shall be installed on West Waterfront Drive at the northeast corner of the property at a location chosen by the Fire Department.

MINUTE ORDER, April 19, 2011

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13. Prior to installation of any fire hydrants on either private or public property, all permits, including Building Permits and Encroachment Permits, required fees, and approval for the proposed location of each hydrant shall be obtained. This condition shall be completed to the satisfaction of the Engineering, Fire, Public Works, and Building Departments.

14. Installation of any fire hydrant shall be performed by a professional approved by the Engineering Department prior to the installation of the hydrant.

15. Access to the required off-street parking spaces which are located on the subject property and on the existing Schneider parcel (APN 003-062-028) on the northeast side of several of the northerly buildings shall be available to both employees and the public any time the buildings they serve are occupied, or the parking spaces shall be relocated, following Design Review approval, so that the spaces are located on and accessed from the Schneider property (APN 003-062-028).

16. Building permits shall be obtained prior to commencement of any work that requires a Building Permit. This condition shall be completed to the satisfaction of the Building, Engineering, Public Works, Fire, and Community Development Departments.

17. Design Review (Site Plan review) shall be completed prior to the installation of any dedicated fire lanes/access roads to the satisfaction of the Engineering, Public Works, Fire, and Community Development Departments.

Adopted on motion by Councilmember Ciarabellini, seconded by Councilmember Atkins, and the following vote:


AYES:	BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

MINUTE ORDER, April 19, 2011  
ITEM: 1  
PAGE: 5

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Community Development

Agenda Item 1

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Public Hearing – Unmet Transit Needs

ACTION:

Retired Assistant Finance Director, Sanna Fase provided a report.

The public hearing was opened at 7:11 P.M. The following individuals addressed the council regarding this subject matter:

Daniel Pearce, McKinleyville would like the City to consider a re-evaluation of the bus stop locations, in hopes of locating one in front of the Co-Op and would also like bus service to be provided on Sunday. Mr. Pearce also advocated for the use of the current railroad line and that this line should be utilized for movement from the south to the north.

The public hearing was closed at 7:11 P.M.

Council directed staff to forward a transcript of comments to the Humboldt County Association of Governments (HCAOG) for inclusion in the 2010-11 Unmet Needs Report of Findings.

Adopted on motion by Councilmember Madsen, seconded by Councilmember Atkins, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

Agenda Item 1

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Public Hearing – Amendments to the Medical Cannabis Ordinance

ACTION:

Interim Community Development Director Lisa Shikany and Assistant Planer Kristen Goetz provided a report.

The public hearing was opened at 7:12 P.M. The following individuals addressed the council regarding this subject matter:

Daniel Pearce, McKinleyville  
Thomas Stewart, Eureka  
Laura Benedict, Eureka  
Greg Allen, Civil Liberties Union  
Jennifer Shippman, Eureka

The public hearing was closed at 7:34 P.M.

Council waived reading, read by Title only, and introduced Bill No. 835-C.S., an Ordinance of the City of Eureka amending Title 15, Chapter 158 Medical Cannabis; Cultivation, Processing and Distribution.

Adopted on motion by Councilmember Atkins, seconded by Councilmember Madsen, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

Agenda Item 3

MINUTE ORDER, April 19, 2011

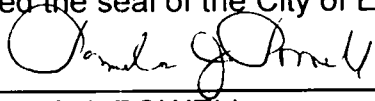
ITEM: 3

PAGE: 2

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Community Development

Agenda Item 3



CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Recess.

ACTION:


Without objection, the council elected to take a brief recess at 8:06 P.M.

At 8:13 P.M. Council reconvened with all present.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Public Comment

ACTION:

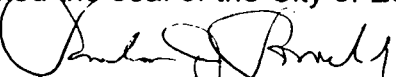
The following individuals addressed the council at this time:

Dennis Scott, Eureka with a POP report.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item 4

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Council meeting minutes.

ACTION:

Council approved the regular Council/Agency meeting minutes of March 1 and March 15, 2011 and the special Council/Agency meeting minutes of March 9, 2011 as submitted.


Adopted on motion by Councilmember Brady, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. City Clerk

Agenda Item 5

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Claim for damages of Squires, Floyd

ACTION:

Council rejected the claim of Floyd Squires


Adopted on motion by Councilmember Brady, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. City Attorney

Agenda Item 6

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Claim for damages of Wolf Sydell

ACTION:

Council rejected the claim of Sydell Wolf


Adopted on motion by Councilmember Brady, seconded by Councilmember Newman , and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. City Attorney

Agenda Item 7

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Authorization to Prepare and Submit Claims for Transit Funding

ACTION:

Council authorized staff to prepare and submit a Transportation Development Act (TDA) claim in the amount of \$810,819.


Adopted on motion by Councilmember Brady, seconded by Councilmember Newman , and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Finance

Agenda Item 8

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Transportation Development Act (TDA) Fiscal and Compliance Audit and  
Management Letter, Fiscal year 2009-10

ACTION:

Council received and filed the Humboldt County Association of Governments (HCAOG) Transportation Development Act (TDA) fiscal and compliance audit and the Humboldt County Associations of Governments (HCAOG) Management Letter for the 2009-10 fiscal year.


Adopted on motion by Councilmember Brady, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Finance

Agenda Item 9

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Request for Exception to the Hiring Freeze

ACTION:

Council Approved an exception to the hiring freeze for a Senior Personnel Analyst position.

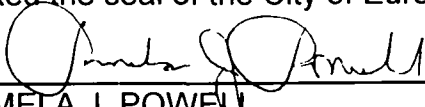
Adopted on motion by Councilmember Brady, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Personnel

Agenda Item 10



CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Request for Exception to the Hiring Freeze

ACTION:

Council approved an exception to the hiring freeze for a Maintenance Worker I/II position.


Adopted on motion by Councilmember Brady, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Personnel

Agenda Item 11

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Implement Service Alternative Approved in 2010/11 Budget

ACTION:

Council reclassified the currently allocated Information Services Analyst II position to Senior Information Services Analyst and adopted the job specification for Senior Information Services Analyst per the 2006 Koff Class/Compensation Study and established an M24 salary grade for the position consistent with the position's essential job functions; and

Adopted updated Koff Study job specifications for Information Services Manager and established an M27 salary grade for the position consistent with the position's essential job functions.

Adopted on motion by Councilmember Brady, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Personnel

Agenda Item 12

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Centerline Striping 2011 Bid No. 2011-16

ACTION:

Council appropriated \$15,000 from Gas Tax Funds for the Centerline Striping 2011 Project.


Adopted on motion by Councilmember Brady, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.



PAMELA J. POWELL  
CITY CLERK

Originating Dept. Engineering

Agenda Item 13

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: City Engineer Employment Contract

ACTION:

City Manager, David Tyson, provided a report. No one from the public addressed the council regarding this subject matter.

Council authorized the City Manager to execute a City Engineering At-Will Employment Agreement with Kurt Gierlich including corresponding salary adjustment.

Adopted on motion by Councilmember Madsen, seconded by Councilmember Ciarabellini , and the following vote:

AYES: BRADY, NEWMAN, CIARABELLINI, MADSEN  
NOES: ATKINS  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. City Manager

Agenda Item 14

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: City Attorney Recruitment

ACTION:

Council authorized the City Manager to execute an Executive Search Services Agreement between the City of Eureka and Peckham and McKinney to provide Executive Search Services for the position of City Attorney.

Adopted on motion by Councilmember Brady, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN

NOES: NONE

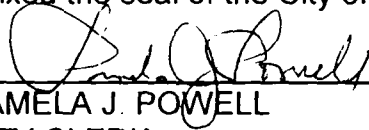
ABSENT: NONE

ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. City Manager

Agenda Item 15

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Agreement Amendment between the City of Eureka and Humboldt Community Services District for Regional Wastewater Treatment.

ACTION:

Council authorized the City Manager to execute an updated Agreement between the City of Eureka and Humboldt Community Services District for Regional Wastewater Treatment.

Adopted on motion by Councilmember Brady, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.



PAMELA J. POWELL  
CITY CLERK

Originating Dept. Assistant City Manager

Agenda Item 16

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Martin Slough Interceptor PH-1 Final Easement Acquisitions

ACTION:

Council authorized staff to complete negotiations and execute agreements with the last two landowners (Barnum & Lundblade) of the remaining four properties for Phase 1 of the Martin Slough Interceptor project for the purchase of permanent and temporary construction easements; and

Approved an expenditure of up to \$150,000 in Wastewater Funds for the acquisition of four permanent easements and four temporary construction easements (eight total) for the Martin Slough Interceptor Project Phase 1; and

Authorized the City Manager to execute the acquisition documents for the eight remaining easements for the Martin Slough Interceptor Project Phase 1.

Adopted on motion by Councilmember Brady, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL  
CITY CLERK

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Martin Slough Interceptor Phase 1 Award of Construction, Bid No. 2011-01

ACTION:

Council declared Mercer-Fraser Company, the low bidder on Martin Slough Interceptor Phase 1 project; and awarded Bid No. 2011-01 to Mercer-Fraser for the amount of \$4,359,065, and approved \$4,800,000 for construction, which includes a contingency of approximately 10%.

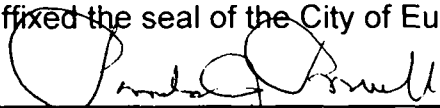
Adopted on motion by Councilmember Brady, seconded by Councilmember Newman , and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Engineering

Agenda Item 18



CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Eureka Redevelopment Agency – Series B Lease Revenue Bonds

ACTION:

Council transferred remaining balance of Series B Lease Revenue Bonds from Project 381: C Street Market Square & Parking Lot Utilities to Project 438: Fishermen's Terminal Building.

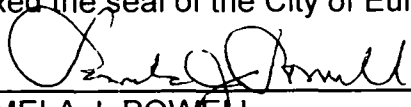
Adopted on motion by Councilmember Brady, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Engineering

Agenda Item 19

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Flood Plain Ordinance

ACTION:

Interim Community Development Director, Lisa Shikany, provided a report. No one from the public addressed the Council regarding this subject matter.

Council waived reading, read by title only and adopted Bill No. 825-C.S., Ordinance No. 767-C.S.

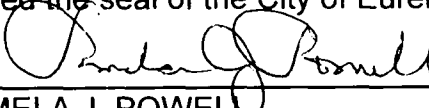
Adopted on motion by Councilmember Atkins, seconded by Councilmember Madsen, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Engineering

Agenda Item 20

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: City Manager/Executive Director's reports

ACTION:

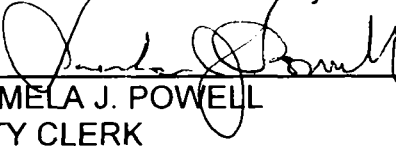
City Manager Tyson provided information regarding the following:

- Chief Garr Nielsen introduced Detective Ron Harpham to provide information to the Council about a recent case he is working on.
- Council was reminded of the upcoming Strategic Visioning session to be held on April 28, 2011 and Redwood Empire Division meeting on May 13, 2011
- County of Humboldt has noticed RCAA of upcoming budget cuts which may affect operations at the MAC Center.
- Sequoia Park Zoo has received a 2.3 million dollar grant award from the California Department of Parks and Recreation.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. City Manager

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of April 19, 2011.

SUBJECT: Adjournment

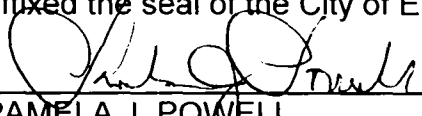
ACTION:

Without objection, the meeting was adjourned at 8:47 P.M.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed the seal of the City of Eureka on May 9, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

**AGENDA SUMMARY**
**RE: STREET OVERLAY 2011**  
**BID NO. 2011-13**
**FOR AGENDA DATE: MAY 17, 2011**
**AGENDA ITEM NO.:**

6

**RECOMMENDATION:**


Appropriate \$685,000 from Gas Tax and \$115,000 from Caltrans Non-Freeway Funds for the Street Overlay 2011 Project

**SUMMARY:**

The Street Overlay 2011 Project will be constructed to overlay Harris Street from Broadway to Harrison Avenue driving lanes, slurry seal the parking lanes, and install ADA compliant drop curbs at the crosswalks. Additional street sections will be repaired including "T" Street between 3<sup>rd</sup> and 4<sup>th</sup> Streets, and "O", Myrtle, and 4<sup>th</sup> Street Extension near the library as funding permits. Hawthorn Street, north of Broadway, will receive some repairs with contribution from Humboldt Waste Management Authority.



Last year ARRA funding was used for phase one of Harris Street rehabilitation. This included the grinding and patching of failed asphalt areas and traffic loop detection replacement. This current phase of the rehabilitation will seal the patches and parking lanes, and improve the structural integrity of this principal arterial which carries about 15,000 vehicles per day.

Staff recommends that Council authorize \$800,000 to be appropriated from Gas Tax and Caltrans Non-Freeway Funds to complete the Street Overlay 2011 project.

Prepared by: Sheila Parrott, Project Manager 

**FISCAL IMPACT:**

Expenditures: Appropriate \$685,000 from Gas Tax account: 227-47000-7226 PJ 498-227, and \$115,000 from Caltrans Non-Freeway Funds account: 226-47000-7226 PJ 498-226

**DEPARTMENT HEAD SIGNATURE:**
  
 Kurt E. Gierlich  
 City Engineer
**CITY MANAGER SIGNATURE:**
  
 David W. Tyson  
 City Manager
**REVIEWED BY:**
 City Attorney  
 Finance  
 Public Works
**DATE:**
 5/10/11  
 5/10/11
**INITIALS:**
 PR  
 BY
**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_

**AGENDA SUMMARY**

**RE: CLASS II BIKE LANE ON HARRIS STREET  
FROM "I" STREET TO HARRISON AVENUE**

**FOR AGENDA DATE: MAY 17, 2011**

**AGENDA ITEM NO.:**

7

**RECOMMENDATION:**

Council revise existing 2004 Regional Bicycle Transportation Plan to upgrade proposed bike route on Harris Street, from "I" Street to Harrison Avenue, from a Class III bike route to Class II bike lane.

**SUMMARY:**

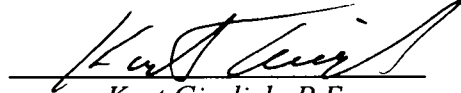
The Humboldt County Association of Governments (HCAOG) is currently working on a revised Regional Bicycle Transportation Plan for 2011. City of Eureka revisions to the existing plan (adopted in 2004) include changing the Class III bike route (signs only) on Harris Street, from "I" Street to Harrison Avenue, to a Class II bike lane (dedicated paint striped lane). This section of bike lane will complete the gap between the existing bike lane on Harris Street (from Fairfield to "I" Street) and the new bike lane on the County's side east of Harrison Avenue. The opportunity to install this section of bike lane will become available this fall with the project to overlay Harris Street and re-stripe the entire street section.

The draft 2011 plan is not yet completed and it will then require approval by the HCAOG Board after which time the plan will be brought to Council for approval. By amending our current bike plan now, staff can immediately investigate the desire and feasibility for the bike lane project. The identification of bicycle facilities included in local and regional bike plans does not necessarily mean that the facilities will be built.

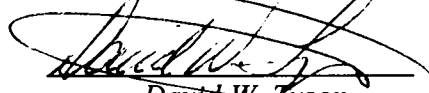
*Continued on Page 2*

**FISCAL IMPACT:**

None with this action.

**DEPARTMENT HEAD SIGNATURE:**


Kurt Gierlich, P.E.  
City Engineer

**CITY MANAGER SIGNATURE:**


David W. Tyson  
City Manager

**REVIEWED BY:**

City Attorney  
Finance  
Public Works

**DATE:**

5/9/11  
5/10/11

**INITIALS:**

PR  
BY

**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_

<b>RE: CLASS II BIKE LANE ON HARRIS STREET FROM "I" STREET TO HARRISON AVENUE</b>	<b>FOR AGENDA DATE: MAY 17, 2011</b> <b>AGENDA ITEM NO.:</b> <i>Page 2</i>
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**SUMMARY** *(continued)*

The process, following approval of the revision, includes notification to the adjacent property owners on Harris Street, public notification and hearing at Parking Place Commission meeting, and engineering study and design. If desired and feasible, staff will incorporate the design into the plans of the Harris Street overlay project and return to Council for project award approval.

Attached for Council's consideration are letters of support for the bike lane from two bicycle advocacy groups and the project spreadsheet "Proposed Facilities: HCAOG 2004 Regional Bicycle Transportation Plan Update – City of Eureka Proposed Bikeways".



Our goal: To improve and encourage bicycle commuting

P.O. Box 9054, Eureka, California 95502-9054

RECEIVED  
MAY 09 2011

ENGINEERING DEPARTMENT

May 4, 2011

Sheila Parrott  
Engineering Department  
City of Eureka  
531 K Street  
Eureka CA 95503

Dear Sheila,

It is a pleasure for the Humboldt Bay Bicycle Commuters Association to express its support for the proposed bike lane on Harris Street between "I" Street and Harrison Avenue. This was the #1 priority Eureka project when we commented during the recent update effort for the Humboldt County Association of Governments' Regional Bike Plan effort. This is especially important at this point given the recent bike lane development east of Harrison Avenue by the County. This project will close the gap in this heavily used bike corridor that serves as a link to the Cutten Area, Redwood Acres, and Old Arcata Road. While we recognize that some parking will have to be eliminated in this area, we believe a project similar to that employed on Myrtle Avenue, where parking was taken from one side and then the other, can serve to maintain necessary parking while creating the needed bike lanes. If possible, in conjunction with the proposed bike lane, we recommend an additional segment of bike lane be striped on Harris between Broadway and the Eureka Mall where the current bike lane begins. We believe it could be done through shifting the centerline and restriping to create a 5-foot bike lane.

We appreciate being consulted on this project and we offer our services to review any alternatives as they are developed for the project. In developing the project, narrowing the traffic lanes to reduce speeds and to allow more space for a wider bike lane (i.e., 6 feet) in the downhill direction (where higher bike speeds will occur) will be important to achieve the best possible outcome.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Knapp".

Rick Knapp, President



HCAOG 2004 Regional Bicycle Transportation Plan Update - City of Eureka Proposed Bikeways										
Score	Project Corridor/ Street	From	To	Proposed Class	Length	Estimated Cost	Project Incl. from 2000 Plan	Local (L) Regional (R)	Pacific Coast Bike Route	Notes
City of Eureka										
16	Eureka Waterfront Trail	Commercial	Pound Road	I	3.4	\$ 1,872,200	✓	R		CA Coastal Trail segment
18	7 <sup>th</sup> Street	J Street	Myrtle Avenue	II	0.5	\$ 37,500	✓	R		
14	H Street/ Campton Road	Harris Street	City limit	II	0.6	\$ 46,425	✓	R		
16	14 <sup>th</sup> Street	Waterfront	West Ave.	III	1.2	\$ 1,809	✓	R		
15	Allard Avenue	Glen Street	Little Fairfield	III*	0.1	\$ 145		R		
14	Buhne St.	Fairfield St.	Harrison St.	III*	1.6	\$ 4,088	✓	R		
16	B Street	Third Street	Harris St.	III*	1.6	\$ 3,898		R		
17	C Street	Waterfront	7th Street	III*	0.3	\$ 687		L		Waterfront connectivity with B Street
14	Dolbeer	Harris Street	Hemlock	III*	0.5	\$ 1,178		R		
17	E Street	Harris Street	Waterfront Drive	III	1.7	\$ 2,576	✓	R		
15	Fairfield St.	Harris Street	Wabash Ave.	III*	0.8	\$ 2,035	✓	R		
15	Glen Street	Harris Street	Allard Ave.	III*	0.5	\$ 1,243	✓	L		
16	Harris Street	I Street	Hall Avenue	III	1.8	\$ 2,711	✓	R	✓	
16	Harrison Ave.	Harris Street	Harrison St. (city limit)	III*	1.1	\$ 2,790	✓	R		School route
14	Hemlock St.	W Street	Walnut Ave.	III*	0.2	\$ 383	✓	R		School route
17	Henderson St.	S Street	I Street	III*	0.6	\$ 1,445	✓	R	✓	
13	Hodgson St.	F Street	W Street	III*	1.0	\$ 1,509	✓	L		School route

17	S St./West Ave./V St.	Hodgson Street	First Street	III*	2.0	\$ 2,983	✓	R		School route
13	State Route 255	Northwest City Limit	5th Street	III	1.5	\$ 2,250		R		
15	Utah St./Central Avenue	Allard Street	Henderson Center	III*	0.6	\$ 1,500	✓	R		
14	W Street	Hodgson Street	Hemlock Street	III	0.4	\$ 575	✓	R		School route
19	Wabash Avenue	C Street	H Street	III*	0.4	\$ 965	✓	L		
14	Washington Street	Waterfront	B Street	III	0.6	\$ 938	✓	L		
14	Waterfront/First Street	L Street	Commercial	III*	0.7	\$ 1,870		L		
				<b>CITY OF EUREKA TOTAL</b>	<b>23.6</b>	<b>\$ 1,993,698</b>				
<b>III* = Enhanced Class III</b>						<b>New Projects Are Highlighted</b>				

**AGENDA SUMMARY**

**RE: LETTER COMMENTING ON THE PACIFIC  
COAST SALMON PLAN AMENDMENT 16 DRAFT  
ENVIRONMENTAL ASSESSMENT**

**FOR AGENDA DATE: MAY 17, 2011  
AGENDA ITEM NO.:**

9

**RECOMMENDATION:**

1. Receive a report from Jim Yarnall, Humboldt Area Saltwater Anglers (HASA)
2. Consider signing comment letter included as Attachment 1

**SUMMARY:**

At their May 10, 2011 meeting, the Humboldt County Board of Supervisors unanimously voted to sign a letter commenting on the Pacific Coast Salmon Plan Amendment 16 Draft Environmental Assessment requesting that the Pacific Fisheries Management Council choose the Status Quo option allowing the current Fisheries Management Plan to continue to be the guiding document for Pacific Coast Salmon. The Board of Supervisors' Agenda Item Transmittal and letter are included herein as Attachment 2.

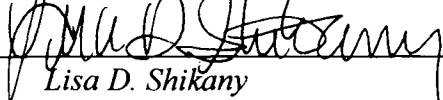
Jim Yarnall of Humboldt Area Saltwater Anglers has approached the City with a request that we also support the Status Quo option by signing a similar letter. Mr. Yarnall will make a brief presentation on the issue. Included as Attachment 1 is a draft letter for your consideration which contains the same language as the letter signed by the BOS.

**ATTACHMENTS:**

Attachment 1     Draft comment letter  
Attachment 2     Humboldt County BOS Agenda Item Transmittal

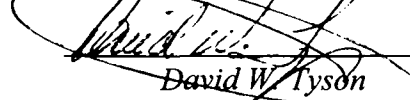
*prepared by: Lisa D. Shikany*

**FISCAL IMPACT:** None with this action.

**DEPARTMENT HEAD SIGNATURE:**


*Lisa D. Shikany*

Interim Director of Community Development

**CITY MANAGER SIGNATURE:**


*David W. Tyson*

City Manager

**REVIEWED BY:**

Assistant City Manager

**DATE:**

5-12-11

**INITIALS:**

ML

**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_

## **Attachment 1**

May 17, 2011

Mark Cedergreen, Chairman  
Pacific Fisheries Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, OR 97220-1384

Dear Chairman Cedergreen,

The City of Eureka appreciates the opportunity to comment on the Draft Environmental Assessment for the Pacific Coast Salmon Plan Amendment 16.

We understand the rationale for the new requirements to end and prevent overfishing through the use of annual catch limits and accountability measures contained in the Magnuson-Stevens Act (MSA), 2006 reauthorization. The 2006 reauthorization also required the establishment of acceptable biological harvest levels. These requirements appear to be intended to establish a management framework that is biologically based and supported by scientifically sound principals. We support these requirements for fish stocks and stock complexes that historically have not been managed and regulated by an approved Management Plan or where those requirements have not been implemented.

In the case of Pacific Coast Salmon, however, we have been successfully managing extremely diverse, complex and widely distributed salmon stocks. Most notably, Klamath Salmon have a proven Fishery Management Plan (FMP) that has been in place since 1977. Various amendments have been added to address management refinements and technical upgrades. In our view, this document is an example of what the new proposals of MSA are designed to do for all regulated fish stocks. We feel that the new requirements are already included in the existing FMP in the form of conservation objectives, ocean harvest limitations and harvest alternatives modeled to meet specific goals. Because the current FMP has been continually updated to include new science and ESA requirements and because the results of the required management actions have been evaluated annually, we feel the current FMP is the best available science for management of Pacific Coast Salmon. Accordingly, the FMP satisfies all of the MSA National Standards. In addition, the requirements, process and results are well understood by the affected communities and the social and economic realities are also clear to those who depend on this fishery.

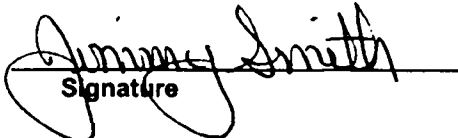
Humboldt County has a long history of involvement in salmon issues. We support sustainable fisheries and recognize the importance of our commercial, tribal, and recreational salmon fisheries. The salmon fishery and its related employment is essential to our economy.

In conclusion, we request that the Council choose the Status Quo option and thereby allow the current FMP to continue to be the guiding document for Pacific Coast Salmon. The science of managing salmon harvest is very advanced when compared to most groundfish and pelagic species and we are convinced that existing management framework mirrors the intent of the MSA 2006 reauthorization requirements.

Sincerely,

Frank Jager, Mayor  
City of Eureka

# Attachment 2

<b>Humboldt County Board of Supervisors</b> <b>Agenda Item Transmittal</b>  <b>Consent</b> <b>From:</b> Supervisor Jimmy Smith <b>Meeting Date:</b> May 10, 2011 <b>Time Required:</b> N/A	<b>Contact for Information</b>  <b>Name:</b> Kat Hayes  <b>Telephone:</b> 476-2396
<b>Subject:</b> Letter Commenting on the Pacific Coast Salmon Plan Amendment 16 Draft Environmental Assessment.	
<b>Summary:</b> Humboldt County has a long history of involvement with salmon issues and supports sustainable fisheries. The Board recognizes the importance of commercial, tribal, and recreational salmon fisheries to be essential to employment and the economy in Humboldt County. As such, the Board is sending a letter commenting on the Pacific Coast Salmon Plan Amendment 16 Draft Environmental Assessment, requesting that the Pacific Fisheries Management Council choose the Status Quo option allowing the current Fisheries Management Plan to continue to be the guiding document for Pacific Coast Salmon.          <b>Requested Action:</b> Authorize Chair to sign letter.           Signature	
<b>FOR OFFICIAL USE ONLY</b>	<b>BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT</b> Upon motion of Supervisor _____ Seconded by Supervisor _____  Ayes Nays Abstain Absent  and carried by those members present, the Board hereby approves the recommended action contained in this Board report.  Dated: _____  By: _____ Kathy Hayes, Clerk of the Board

May 10, 2011

Mark Cedergreen, Chairman  
Pacific Fisheries Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, OR 97220-1384

Dear Chairman Cedergreen,

Humboldt County appreciates the opportunity to comment on the Draft Environmental Assessment for the Pacific Coast Salmon Plan Amendment 16.

We understand the rationale for the new requirements to end and prevent overfishing through the use of annual catch limits and accountability measures contained in the Magnuson-Stevens Act (MSA), 2006 reauthorization. The 2006 reauthorization also required the establishment of acceptable biological catch levels. These requirements appear to be intended to establish a management framework that is biologically based and supported by scientifically sound principals. We support these requirements for fish stocks that have not been historically managed and regulated by an approved Management Plan or where those requirements have not been in place. In the case of Pacific Coast Salmon however, we have been successfully managing extremely diverse, complex and widely distributed salmon stocks with a proven Salmon Fishery Management Plan (FMP) that has been in place since 1977. Various amendments have been added to address management refinements and new technology. In our view, this document is an example of what the new requirements of MSA are designed to do for all regulated fish stocks. We feel that the new requirements are already included in the existing FMP in the form of conservation objectives, ocean harvest limitations and harvest alternatives modeled to meet specific goals. Because the current FMP has been continually updated to include new science and ESA requirements and because the results of the required management actions have been evaluated annually, we feel the current FMP is the best available science for management of Pacific Coast Salmon. Accordingly, the existing FMP satisfies all of the MSA National Standards. In addition, the requirements, process and results are well understood by the affected communities and the social and economic realities are also clear to those who depend on this fishery.

Humboldt County has a long history of involvement in salmon issues. We support sustainable fisheries and recognize the importance of our commercial, tribal, and recreational salmon fisheries. The Salmon fishery and its related employment is essential to our economy.

In conclusion, we request that the Council choose the Status Quo option and thereby allow the current FMP to continue to be the guiding document for Pacific Coast Salmon. The science of managing salmon harvest is very advanced when compared to most groundfish and pelagic species and we are convinced that existing management framework mirrors the intent of the MSA 2006 reauthorization requirements.

Sincerely,

Mark Lovelace, Chair  
Humboldt County Board of Supervisors

ML:kh

**AGENDA SUMMARY**
**RE: HUMBOLDT WASTE MANAGEMENT  
AUTHORITY RECYCLING MOU**
**FOR AGENDA DATE: MAY 17, 2011**
**AGENDA ITEM No.:**
*Page 1*
*/t*
**RECOMMENDATION:**

Staff recommends Council:

1. Adopt the attached MOU giving flow control of the City's recyclables to Humboldt Waste Management Authority for the five year term of the Authority's pending contract with Solid Waste of Willits.
2. If Humboldt Waste Management Authority does not approve the contract with Solid Waste of Willits, direct staff to pursue a contract between the City and Solid Waste of Willits for processing the City's recyclables.

**SUMMARY OF THE ISSUE:**

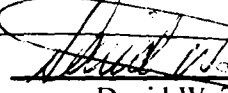
On March 16, 2010, Council authorized Humboldt Waste Management Authority (HWMA) to be lead agency for a Request for Proposals (RFP) to process the City's recyclable material. In August 2010, HWMA distributed a recycling processing RFP. Two recycling processors submitted proposals, Arcata Community Recycling Center (ACRC) and Solid Waste of Willits.

HWMA established a review committee consisting of City of Arcata, Eureka, Humboldt County and HWMA staff. The review committee evaluated each proposal and made site visits to the processing facilities. The proposals were evaluated based on their content, completeness, and clarity. Cost, operations, qualifications and experience, environmental enhancements and contract agreement were the criteria developed for evaluating the information requested in the RFP. Proposals were assessed based on the extent to which they met the evaluation criteria.

The scores of each member of the review committee were averaged and totaled. Solid Waste of Willits had a final score of 75.5. ACRC had a final score of 53.8.

*(continued on next page)*
**FISCAL IMPACT:**

Revenue received from the contract will go towards offsetting costs associated with solid waste programs.

**MANAGEMENT ANALYST:**
  
 Miles Slattery  
*Project Manager*
**DEPARTMENT HEAD:**
  
 Bruce A. Young  
*Public Works Director*
**CITY MANAGER:**
  
 David W. Tyson  
*City Manager*
**REVIEWED BY:**
 City Attorney  
 Finance
**DATE:**
 \_\_\_\_\_  
 \_\_\_\_\_
**INITIALS:**
 \_\_\_\_\_  
 \_\_\_\_\_
**Council Action:**

Ordinance No. \_\_\_\_\_ Resolution No. \_\_\_\_\_

**SUMMARY OF THE ISSUE (CONTINUED):**

At their February 10, 2011 meeting, the HWMA Board directed HWMA staff to negotiate a contract with Solid Waste of Willits. The contract was finalized and presented to the HWMA Board at their May 12<sup>th</sup> meeting. The Board postponed approval of the contract pending member agencies' approval of a MOU giving flow control of member agencies' recyclable materials to HWMA for the five year term of HWMA's pending contract with Solid Waste of Willits.

**RECOMMENDATION**

Staff recommends Council:

3. Adopt the attached MOU giving flow control of the City's recyclables to Humboldt Waste Management Authority for the five year term of the Authority's pending contract with Solid Waste of Willits.
4. If Humboldt Waste Management Authority does not approve the contract with Solid Waste of Willits, direct staff to pursue a contract between the City and Solid Waste of Willits for processing the City's recyclables.

**ATTACHMENTS**

1. Agreement for Recyclable Materials Loading, Transportation, Processing and Marketing Services between Solid Waste of Willits, Inc. and Humboldt Waste Management Authority
2. Memorandum of Understanding between Humboldt Waste Management Authority and Certain of its Member Agencies to Participate in a Recyclable Materials Processing Contract



## **ARTICLE 8 INDEPENDENT CONTRACTOR**

**8.1 Independent Contractor.** It is understood, and agreed, that Authority retains Contractor on an independent contractor basis and Contractor is not an agent or employee of Authority. The manner and means of conducting the work are under the control of Contractor, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. Nothing in this Agreement shall be deemed to constitute approval for Contractor or any of Contractor's subcontractor's, employees or agents, to be the agents or employees of Authority. Contractor shall have the responsibility for and full control over the means of performing the work, provided that Contractor is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give Authority the right to direct Contractor as to the details of the performance or to exercise a measure of control over Contractor shall mean only that the Contractor shall follow the desires of Authority as expressed in this Agreement with respect to the results of the services.

## **ARTICLE 9 RECYCLABLE MATERIALS PROCESSING AND DISPOSAL OF RESIDUAL WASTE**

**9.1 Recyclable Materials Processing and Disposal of Residual Waste.** On a monthly basis, Contractor shall divert at least ninety-six percent (96%) of all Recyclable Materials directed to Contractor hereunder by Authority and in no event shall Contractor dispose as Residual Waste more than four percent (4%) of such Recyclable Materials in any landfill during such calendar month. On or before the 30<sup>th</sup> day of the month following the end of the previous calendar month, Contractor shall provide all documents and information designated by Authority to prove that Contractor has complied with this Article 9.

Authority recognizes and agrees that the Participating Member Agencies and their franchise haulers have responsibility for minimizing Residual Waste in the Recyclable Materials they deliver to the Receiving Facilities, and Authority agrees to use its reasonable efforts, including educational efforts in conjunction with Participating Member Agencies to insure that Residual Waste does not exceed four percent (4%), so that it is possible for Contractor to achieve the 96% diversion requirement. Ongoing Residual Waste in excess of 4% of loads from Participating Member Agencies directed to Contractor, as documented in audits and reported by Contractor to Authority shall cause Authority to provide credits to Contractor to be applied against the Tonnage Fee in the amount of the actual cost incurred by Contractor for transportation and disposal of Residual Waste in excess of 4% per month.

In the event new or additional diversion requirements are imposed by law, ordinance or regulation on Authority and/or Contractor, the Authority shall have the right to require Contractor to divert additional Recyclable Materials from landfills by providing Contractor with ten (10) days written notice of the new diversion requirements. Contractor may apply for a service Fee adjustment in processing costs associated with increase in diversion levels required by Authority.

Contractor shall dispose of Residual Waste processed at either Processing Facility to a certified or licensed landfill which is lawfully authorized to accept that specific type of solid waste material. Contractor shall not dispose of Residual Waste by depositing it on any land (except a permitted facility) whether public or private, or in any river, stream or other waterway, or in any sanitary

sewer or storm drainage system. Nothing in this Agreement shall be deemed or construed as authorizing Contractor to operate a landfill, recycling center, or other solid waste disposal facility.

## **ARTICLE 10 REPORTING REQUIREMENTS**

**10.1 Reporting Requirements.** Contractor shall submit to Authority monthly reports setting forth the total amount (in Tons) of Recyclable Material, which Contractor receives at the Processing Facilities during the reportable month. The monthly reports shall report for each Participating Member Agency to the extent identified by the Participating Member Agencies (or franchise haulers) as coming from that Participating Member Agency the total weight (in Tons) of Recyclable Materials received and processed, the total weight (in Tons) of the Residual Waste disposed of by Contractor, and the disposal facility or disposal facilities, including Tons, at which Contractor has disposed of the Residual Waste. Monthly reports will document and report any trend in excess Residual Waste any Participating Member Agency's franchise haulers to Contractor, so Authority can educate such franchise haulers and Participating Member Agency about methods for reducing such Residual Waste.

Every Quarter, Contractor shall submit to Authority a report of Tonnage Fee adjustment as specified in Article 6.2. Contractor shall additionally submit a Quarterly report of any equipment, facility safety, employee safety and inspection reports, citations, records and other documents for Contractor's operations and activities that relate in any way to this Agreement including, but not limited to, periodic California Highway Patrol biennial facility inspection reports; vehicle citations; California Highway Patrol incident reports; citations issued to drivers/operators; other citations issued to Contractor or its employees; California Occupational Safety and Health Administration 300 reports; and Local Enforcement Agency inspection/compliance reports. Quarterly reports and accompanying documentation shall be submitted on or before the 15<sup>th</sup> day of the month following the end of the quarter (i.e. report due July 15, 2011, for Quarter ending June 30, 2011) in accordance with Article 23.

Except as expressly provided herein, Contractor shall comply with all recycling and diversion reporting requirements imposed by law, ordinance, or regulation on Authority with respect to the Recyclable Materials directed to Contractor hereunder. Monthly reports stating the total amount (in Tons) of Recyclable Materials which Contractor transferred, transported, recycled, and landfilled (disposed of for each Participating Member Agency to the extent identified by the Participating Member Agency or its franchise hauler) as coming from that Participating Member Agency should accurately reflect at least a ninety-six percent (96%) diversion rate as required by this Agreement. At the end of each Quarter, monthly reports will be evaluated for compliance.

## **ARTICLE 11 EQUIPMENT**

**11.1 Equipment.** Contractor shall use transfer vehicles that comply with all applicable local, State and Federal air quality standards and mandates at all times during the term of this Agreement. Contractor shall, at all times during such term, provide such number of vehicles and such equipment as will be adequate for the transportation and disposal services which it is authorized to provide under this Agreement. All vehicles utilized by Contractor in the performance of this Agreement shall be registered with the California Department of Motor Vehicles. All vehicles shall pass the required periodic California Highway Patrol biennial inspection of the terminals ("BIT"). All vehicle and equipment used by Contractor or its subcontractors in the performance of this Agreement shall be subject to inspection by Authority

upon twenty-four (24) hours notice by the Executive Director. All vehicles shall be properly maintained, kept clean and in good repair. All drivers employed by Contractor or its subcontractors operating equipment in connection with the services under this Agreement shall be properly licensed for the class of vehicle they drive, enrolled in the Department of Motor Vehicles Employee Pull Notice (EPN) program, and abide by all State and Federal regulations for driver hours and alcohol and controlled substances testing.

Each vehicle shall be so constructed and used in a manner so that no Recyclable Material, debris, oil, grease or other material will blow, fall, or leak out of the vehicle. All Recyclable Materials and Residual Waste shall be transported by means of vehicles which are covered (tarp) in such a manner as to securely contain all Recyclable Materials and Residual Waste and to prevent them from projecting, blowing, falling or leaking out of the vehicles. A communications device such as a two-way radio or a cellular telephone shall also be maintained on each vehicle at all times.

Should the Authority's Executive Director at any time give written notification to Contractor that any vehicle does not comply with the standards hereunder, the vehicle shall be promptly removed from service by Contractor and not used again until inspected and authorized in writing by the Executive Director.

All vehicles used in performance of this Agreement shall be maintained and operated in conformance with all applicable laws, statutes, rules and regulations. In performance of this Agreement, the issuance of four (4) or more vehicle, drive/operator or other citations that relate in any way to this Agreement within a 12 month period shall be deemed to be breach of this Agreement by Contractor.

## **ARTICLE 12 OPERATIONAL REQUIREMENTS**

**12.1 Hours.** Recyclable Materials will be accepted at Contractor's Receiving Facility Monday through Friday from 7:00 a.m. to 4:00 p.m. In addition, Contractor agrees to accept deliveries on Saturday from 7:00 a.m. to 2:00 p.m. by appointment only.

**12.2 Scales.** Contractor shall operate and maintain a certified, fully operational and accurate scale or scales at Contractor's Receiving Facility to weigh all Recyclable Materials delivered by Participating Member Agency franchise haulers. Authority will allow Participating Member Agency franchise haulers to use scales located at Authority's Receiving Facility.

## **ARTICLE 13 STANDARD OF CARE, WORKMANSHIP, AND SUPERVISION**

**13.1 Standard of Care, Workmanship, and Supervision.** Contractor shall provide a work force sufficient to perform the services described herein and all members of the work force shall be hired in compliance with State and Federal law. All services provided for herein shall be performed by competent and trained employees. Contractor represents that it possesses the professional and technical personnel required to perform the services required by this Agreement, and that it will perform all services in a manner commensurate with community professional standards.

Whenever Contractor has knowledge that any actual or potential labor dispute with its employees is delaying or threatens to delay the timely performance of this Agreement, Contractor shall immediately give notice to the Authority and any and all relevant information. In the event of a

labor dispute with Contractor's employees which delays or impacts the performance of services, the Authority reserves the right to use its own forces or to contract with other contractors to perform the services. Authority and Contractor agree that it will be deemed a breach of this Agreement if Contractor cannot provide full services five business (5) days after services have been impacted or delayed as a result of a labor dispute with Contractor's employees.

Contractor shall attend meetings, special events and public meetings as reasonably requested by the Authority. Contractor shall provide all necessary and appropriate personnel to attend each meeting and any requested promotional material so that the topics on the agenda can be addressed fully and completely.

## **ARTICLE 14 INSPECTION OF OPERATIONS**

**14.1 Inspection of Operations.** Any designated representative of Authority shall have the right to observe Contractor's operation and enter Contractor's premises at the Receiving and either Processing Facility for the sole purpose of such observation and review of the handling of Recyclable Materials during normal operating hours, subject to reasonable notice. This provision shall not be construed as giving Authority or its Participating Member Agencies any right to exercise control over the business or operation of Contractor or to direct any operations of Contractor or to direct in any respect the manner in which the business and operations shall be conducted.

## **ARTICLE 15 INSURANCE**

**15.1 Insurance.** Without limiting Contractor's indemnification of Authority, within 30 days of the Effective Date and prior to the Commencement Date, Contractor and all Contractor's subcontractors used in connection with this Agreement, shall obtain, provide and maintain at its own expense during the term of this Agreement, a policy or policies of liability insurance of the type and amounts described below and in a form satisfactory to Authority.

**A. Certificate of Insurance:** With original endorsements to Authority as evidence of the insurance coverage required herein. Insurance certificates must be approved by Authority's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with Authority at all times during the term of this Agreement.

**B. Signature:** A person authorized by the insurer to bind coverage on its behalf shall sign certification of all required policies.

**C. Acceptable insurers:** All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholder's Rating of A (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by Authority's Risk Manager.

### **D. Coverage Requirements**

i. **Worker's Compensation Coverage:** Worker's Compensation Insurance and Employee's Liability Insurance for its employees in accordance with the laws of the State of California; however, in no event shall the Employer's Liability Insurance be less than one million

dollars (\$1,000,000) per occurrence. Any notice of cancellation or non-renewal of all Worker's Compensation policies must be received by Authority at least thirty (30) calendar days (ten (10) calendar days written notice for non-payment of premium) prior to such change. The insurer shall agree to waive all rights of subrogation against Authority, its officers, agents, employees and volunteers for losses arising from work performed by Contractor, or Contractor's subcontractor, for Authority.

ii. General Liability Coverage: Commercial general liability insurance in an amount not less than three million dollars (\$3,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, contractual liability. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement, or the general aggregate limit shall be at least twice the required occurrence limit.

iii. Automobile Liability Coverage: Automobile insurance covering bodily injury and property for all activities of Contractor, or Contractor's subcontractor, arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicle, in an amount not less than three million dollars (\$3,000,000) combined single limit for each occurrence.

iv. Pollution Liability Coverage: Environmental liability with limits in an amount of not less than one million dollars (\$1,000,000) per occurrence and annual aggregate insuring bodily injury and property damage, the cost of remediation and regulatory fines as a result of pollution conditions arising out of the collision, upset or overturn of contractor and/or subcontractor's automobiles in conjunction with this Agreement.

**E. Endorsements:** Each general liability, automobile liability and pollution liability insurance policy shall be endorsed with the following specific language:

i. The Authority, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insured with respect to liability arising out of work performed by or on behalf of Contractor hereunder.

ii. Each policy shall be considered primary insurance with respect to Authority, its elected or appointed officers, officials, employees, agents and volunteers as respects to all claims, losses, or liability arising directly or indirectly from Contractor's operations or services provided to Authority. Any insurance maintained by Authority, shall be considered excess insurance only and not contributory with the insurance provided hereunder.

iii. The insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with the respect to the limits of liability of the insuring company.

iv. The insurer shall waive all rights of subrogation against Authority, its elected or appointed officers, officials, employees, agents and volunteers.

v. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Authority, its elected or appointed officers, officials, employees, agents or volunteers.

vi. The insurance provided by each policy shall not be suspended, voided, canceled, or reduced in coverage or in limits, by either party except after thirty (30) calendar days (10 calendar days written notice for non-payment of premium) written notice has been received by Authority.

**F. Timely Notice of Claims.** Contractor shall give Authority prompt and timely notice of claim(s) made or suit instituted arising out of or resulting from Contractor's performance under this Agreement.

**G. Additional Insurance.** Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and execution of the work.

## **ARTICLE 16 RESPONSIBILITY FOR DAMAGES AND INJURY/INDEMNIFICATION**

**A. General Indemnification.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless, release, and defend Authority, and each of its past, present and future elected officials, officers, employees, agents, consultants, volunteers, affiliates, assignees, representative, attorneys, subsidiaries, and affiliated entities and their respective successors, heirs and assigns (collectively, "Indemnified Parties") for, from and against any costs, expenses, damages, and losses, including reasonable attorney fees ("Losses") of any kind or character to any person or property arising directly or indirectly from or caused from or caused by any of the following: (i) any act or omission of Contractor or its respective officers, directors, shareholder members, partners, employees, agents, contractors, subcontractors, suppliers, representatives and affiliates ("Contractor Representatives") in the performance of Contractor's duties under this Agreement; (ii) Contractor's or Contractor Representative's activities in connection with this Agreement; (iii) any accident or casualty within or arising out of the services/work performed by Contractor or Contractor's Representatives under the Agreement; (iv) any violation or alleged violation of any law, ordinance or statute now or hereafter enacted arising out of services/work performed by Contractor or Contractor's Representative pursuant to the Agreement; (v) the negligence or willful misconduct of Contractor or any of Contractor Representatives in the performance of the services/work under the Agreement; and (vi) any breach by Contractor of this Agreement.

Notwithstanding any other provision herein, Contractor shall not be required to indemnify, hold harmless and defend the Indemnified Parties from the sole negligence, active negligence or willful misconduct of the Indemnified Parties or any of them. Nothing in this indemnity shall be construed as authorizing any award of attorney's fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Contractor.

**B. Hazardous Substances Indemnification.** Contractor shall indemnify the Indemnified Parties from and against all claims, actual damages including, but not limited to, special and consequential damages, natural resource damage, punitive damages, injuries, costs, response, remediation, and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses reasonable attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity of any kind whatsoever paid, incurred or suffered by, or asserted against, the Indemnified Parties or Contractor arising directly or

indirectly from or caused by any of the following: (i) the violation by Contractor or Contractor's Representative of any Environmental Laws or the failure by Contractor or Contractor's Representative to clean up and mitigate the consequences of the spill or release of any Hazardous Substance, in either case in connection with the performance of Contractor's duties hereunder; and (ii) Contractor's activities under this Agreement concerning any Hazardous Substance at any place where Contractor stores or disposes of Residual Waste or Hazardous Waste pursuant to this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to the Comprehensive Environmental Response, Compensation and Liability Act 42. U.S.C. Section 9607(e) and any amendments thereto; and California Health and Safety Code Section 25364, to insure, protect, hold harmless, and indemnify Authority from liability.

**C. Notice.** Authority agrees to give timely notice to Contractor when Authority receives a claim for damages or other liability for which Contractor has provided indemnification under this Section. Authority's failure to give such notice shall not relieve Contractor of its indemnification obligations under this Section except to the extent such failure shall impair Contractor's ability to contest or reduce the subject loss.

## **ARTICLE 17 SUBCONTRACTING**

**17.1 Subcontracting.** The Parties recognize that a substantial inducement to Authority for entering into this Agreement is the professional reputation, experience and competence of Contractor. Assignments of any or all rights, duties or obligations of Contractor under this Agreement will be permitted only with the express written consent of Authority, and Contractor shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of Authority, provided, however, that Authority hereby approves the following: (a) Contractor subcontracting with Pacific Recycling Solutions, Inc. ("PRS") for the transportation, sorting, separating and processing of Recyclable Materials pursuant to a written agreement between Contractor and PRS on terms that are mutually acceptable to both of them, provided that PRS shall by contract be subject to the same obligations as Contractor contained in Articles 5, 9, 12-15, 18 and 23 hereof; and, (b) subcontracting with transportation trucking firms for the transportation of Recyclable Materials, provided that the subcontractors shall comply with Articles 11-14 hereof, and upon written notice to the Authority of the name, business address, and contact information for the trucking firms.

## **ARTICLE 18 ASSIGNMENT**

**18.1 Prohibition against Assignments.** Contractor may not assign any right or obligation of this Agreement or any interest in this Agreement without prior written consent of Authority which consent shall not be unreasonably withheld, provided however, that the present stockholders of Contractor shall have the right to transfer stock in Contractor to their spouse and/or relatives within the first degree of separation without the prior written consent of the Authority. Any attempted or purported assignment without consent of Authority shall be null and void. Contractor acknowledges that these provisions relative to assignment are commercially reasonable and that Contractor does possess special skills, abilities, and personnel uniquely suited to the performance of contract services and any assignment of this Agreement to a third party, in whole or in part, could jeopardize the satisfactory performance of contract services. The sale, assignment, transfer, or other disposition of any of the issued and outstanding capital stock of Contractor, or of the interest of any general partner or joint venture which shall result in changing the control of Contractor, shall be construed as an assignment of this Agreement.

## **ARTICLE 19 RECORDS**

**19.1 Records.** Contractor shall maintain a complete and accurate set of books and other business records with respect to the costs incurred under this Agreement including any labor and disposal costs incurred under this Agreement, any contract services performed under this Agreement, and any expenditures and/or disbursements charged to Authority, for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Authority or Contractor under this Agreement. All such records shall be clearly identifiable. All Contractor's books and other business records, or such part as may be used in performance of this Agreement, shall be subject to inspection and audit by Authority representatives during regular business hours upon two (2) business days notice. Contractor shall allow inspection of all work, data, records, proceedings and activities related to the Agreement for a period of three (3) years from the date of final payment to Contractor under this Agreement. Contractor shall be responsible for all audit and other costs and expenses incurred that relate in any way to audits performed by Authority to verify that Contractor is in compliance with the terms and conditions of this Agreement including, but not limited to, the auditing of facility processing records, Residual Waste statistics, vehicle records, and safety records. Any information provided to Authority marked "confidential and proprietary" by Contractor will be held as "confidential" by the Authority and its Participating Member Agencies and will not be disclosed to a third party without Contractor's written consent to the maximum extent possible under applicable law.

No report, information or other data given to or prepared or assembled by Contractor pursuant to this Agreement may be made available to any individual or organization without prior approval by Authority unless such disclosure is required by law or court proceedings.

## **ARTICLE 20 DISPUTE RESOLUTION**

**20.1. Dispute Resolution.** In the event of any dispute arising under this Agreement, the Parties shall continue to perform their respective obligations under this Agreement and shall meet and attempt to resolve such dispute in a cooperative manner within ten (10) days after the dispute arises. Following the Parties' mutual good faith efforts to resolve disputes for a period of no less than thirty (30) days without success, the Parties shall then attempt to resolve their dispute through non-binding arbitration before a single arbitrator that is mutually acceptable to both Parties. The arbitrator shall have experience in or knowledge of recyclable materials processing. If the dispute is not resolved through such non-binding arbitration, either Party may commence litigation and the Parties hereby agree that venue shall be in Humboldt County Superior Court.

## **ARTICLE 21 PERFORMANCE BOND**

**21.1 Performance Bond.** Within thirty (30) days after the Effective Date, and prior to the Commencement Date, Contractor shall deliver to the Authority a performance bond in the amount of one hundred thousand dollars, (\$100,000) in the form provided by the Authority, which secures the faithful performance of this Agreement, unless such requirement is waived by the Authority's Executive Director. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of



the Agreement and shall be null and void only if Contractor promptly and faithfully performs all terms and conditions of this Agreement.

The performance bond required by this Agreement shall be satisfactory only if issued by a company qualified to do business in California, rated "A" or better in the most recent edition of Best Ruling Guide, the Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII, or better, unless such requirements are waived by the Risk Manager of the Authority.

## **ARTICLE 22 AUTHORITY'S RIGHT TO EMPLOY OTHER CONTRACTORS**

**22.1 Authority's Right to Employ Other Contractors.** Authority reserves the right to employ other Contractors in connection with the work if Contractor breaches any term or condition of this Agreement.

## **ARTICLE 23 REPORTS AND NOTICES**

**23.1 Reports and Notices.** All reports, notices, demands, requests or approvals to be given under this Agreement must be given in writing and will be deemed given when delivered personally by hand or by nationally-recognized overnight courier (such as Federal Express), or on the fourth business day after the deposit thereof in the United States mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests or approvals from Contractor to Authority shall be addressed to Authority at:

Executive Director  
Humboldt Waste Management Authority  
1059 West Hawthorne Street  
Eureka, CA 95501  
Telephone number: 707.268.8680

All notices, demands, requests or approvals from Authority to Contractor shall be addressed to Contractor at:

President/Chief Executive Officer  
Solid Wastes of Willits, Inc.  
PO Box 1425  
Willits, CA 95490  
Telephone number: 707.459.4845

## **ARTICLE 24 TERMINATION/DEFAULT**

**24.1 Termination/Default.** In the event that either Party fails or refuses to perform any of the provisions of this Agreement at the time and in the manner required, that Party shall be deemed in default in the performance of this Agreement, unless- such default is cured within a period of five (5) business days after written notice from the non-defaulting Party specifying the default with reasonable specificity and the steps necessary to cure such default, (or, if more than five (5) business days are reasonably required to cure the default, the defaulting party gives adequate assurance of due performance within five (5) business days after receipt of written notice of

default, and thereafter diligently take steps to cure the default), and the non-defaulting Party may terminate this Agreement by giving to the defaulting Party written notice of termination.

Notwithstanding the above provisions, Authority shall have the right, at its sole discretion and without cause, of terminating this Agreement at any time by giving one hundred eighty (180) calendar days prior written notice to Contractor. Upon termination, each Party shall pay to the other Party that portion of compensation specified in this Agreement that is earned and unpaid prior to the date of termination.

## **ARTICLE 25 COMPLIANCE WITH LAW**

All services rendered hereunder by Contractor shall be provided in accordance with all applicable ordinances, statutes, resolutions, rules, and regulations of the Authority and any Federal, State or local government agency having jurisdiction in effect at the time services is rendered.

## **ARTICLE 26 WAIVER**

A waiver by either Party of any breach by the other Party of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

## **ARTICLE 27 INTEGRATED CONTRACT**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein in this Agreement. No verbal agreement or implied covenant shall be held to vary the provisions herein.

## **ARTICLE 28 AMENDMENT**

This Agreement may be modified or amended only by a written document executed by both Contractor and Authority and approved as to form by the Authority Attorney.

## **ARTICLE 29 SEVERABILITY**

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

## **ARTICLE 30 CONTROLLING LAW AND VENUE**

The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Humboldt.

**ARTICLE 31  
INTERPRETATION**

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

**ARTICLE 32  
ATTORNEYS FEES**

In the event the Authority brings an action to enforce the terms of this Agreement shall be entitled to an award of reasonable attorneys' fees.

**ARTICLE 33  
NUCLEAR FREE ORDINANCE COMPLIANCE**

Contractor certifies by its signature below that it is not a Nuclear Weapons Contractor, in that Contractor is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the County of Humboldt Nuclear Free Humboldt County Ordinance. Contractor agrees to notify the Authority immediately if it becomes a Nuclear Weapons Contractor, as defined above. The Authority may immediately terminate this Agreement if it determines that the foregoing certification is false or if Contractor becomes a Nuclear Weapons Contractor.

**ARTICLE 34  
EXHIBITS**

The following Exhibits are attached hereto and made a part hereof this Agreement:

- Exhibit A: Definitions
- Exhibit B: Schedule of Compensation
- Exhibit C: Market Price Overview
- Exhibit D: Example of Revenue Sharing
- Exhibit E: Memorandum Of Understanding Between The Humboldt Waste Management Authority And Certain Of Its Member Agencies To Participate In A Recyclable Materials Processing Contract
- Exhibit F: Notice of Commencement Date

**IN WITNESS WHEREOF**, Authority and Contractor have executed this Agreement effective as of the day and year of the last party signing below.

*(SIGNATURES FOLLOW ON NEXT PAGE)*

Solid Wastes of Willits, Inc.  
PO Box 1425  
Willits, CA 95490  
("Contractor")

By:

\_\_\_\_\_  
Name:

Title:

Date: \_\_\_\_\_

Humboldt Waste Management Authority  
1059 West Hawthorne Street  
Eureka, CA 95501  
("Authority")

By:

\_\_\_\_\_  
Name:

Title: Chair of the Board

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Executive Director

APPROVED:

\_\_\_\_\_  
APPROVED AS TO FORM

\_\_\_\_\_  
Legal Counsel

## **Exhibit A – DEFINITIONS**

Unless the context otherwise requires, terms having initial capitalization in this Agreement will have the meanings specified in this Article.

### **Act**

“Act” means the California Integrated Waste Management Act of 1989 (AB 939) Public Resources Code, §§ 40000 *et seq.*

### **Affiliate**

“Affiliate” means a Person in which Contractor owns a direct or indirect ownership interest, a Person which has a direct or indirect ownership interest in Contractor and/or a Person which is also owned, controlled or managed by any Person or individual which has a direct or indirect ownership interest in Contractor.

### **Authority**

“Authority” means the Humboldt Waste Management Authority, formed under the California Joint Exercise of Powers Act, Government Code §§ 6500 *et seq.* by the Member Agencies.

### **Agreement**

“Agreement” means this Agreement, including Exhibits.

### **Board of Directors**

“Board of Directors” means the Authority board of directors.

### **Commencement Date**

“Commencement Date” means the date agreed to in writing by the Parties when the Contractor is to begin providing services required by this Agreement, as set forth in **Exhibit F**.

### **Composite Market Value**

“Composite Market Value” means the Scrap Value/Ton + California Redemption Value (CRV)/Ton weighted by the percentage of each commodity in the total Recyclable Material stream as described in **Exhibit B** and **Exhibit C**.

### **Contractor**

“Contractor” means Solid Wastes of Willits, Inc.

### **Day**

“Day” means calendar day unless otherwise specified.

### **Disposal**

“Disposal” means the ultimate disposition of Residual Waste by Contractor at the Disposal site.

### **Diversification**

“Diversification” means the processing and recycling of materials received at the Contractor’s Processing Facility for purposes other than Disposal.

### **Dual-Stream Recyclable Materials**

“Dual-Stream Recyclable Materials” shall mean Recyclable Materials which have been source separated by the Generator into fiber and containers and placed in a designated container for the purposes of collection.

**Effective Date**

"Effective Date" means the date of the last Prty signing this Agreement.

**Environmental Laws**

"Environmental Laws" means any and all present and future Federal, state or local laws (whether common law, statute, rule, regulation or otherwise), permits, orders and any other requirements of Governmental Authorities relating to the environment or any "Hazardous Substance" or "Hazardous Substance Activity" (as defined herein) (including, without limitation, the Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.; the Resource Conservation and Recovery Act, 42 USC §6902 et seq.; the Federal Clean Water Act, 33 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §1601 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the California Toxic Substances Control Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the 19 Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

**Executive Director**

"Executive Director" means the executive director of the Authority.

**Generator**

"Generator" means the residential, commercial or institutional customer of any Member Agency's franchise hauler that generates the Recyclable Materials subject to this Agreement.

**Hazardous Substance**

"Hazardous Substance" shall mean any of the following: (a) any chemical, compound, material, mixture or substance that is now or hereinafter defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, USC §9601 et seq.(CERCLA); (ii) the Hazardous Materials Transportation Act, USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, USC §7901 et seq.; and (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated there under to such enumerated statutes or acts currently existing or hereafter enacted; (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable Federal, State or local Environmental Laws currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyls ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products; and (d) petroleum, petroleum by-products, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas in such synthetic gas), ash, municipal solid waste, steam, drilling fluids, produced waters and wastes associated with the exploration, development and production of crude oil, natural gas or geothermal resources.

**Hazardous Waste**

"Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous

Waste, or extremely Hazardous Waste by the State in Health and Safety Code §25110.02, §25115, and §25117 or in any future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated there under.

**Holidays**

“Holidays” means New Year’s Day, Thanksgiving Day, and Christmas Day.

**Loading Fee**

“Loading Fee” means the fee paid by Contractor to the Authority for loading of Recyclable Materials at the Authority’s Receiving Facility.

**Member Agency or Member Agencies**

Individually “Member Agency” or collectively “Member Agencies” mean the current and future members of the Humboldt Waste Management Authority or any successor agency.

**Participating Member Agency**

Individually “Participating Member Agency” or collectively “Participating Member Agencies” means those Member Agencies who have chosen to participate in this Agreement by directing their respective franchise haulers to deliver Recyclable Materials to a Receiving Facility.

**Party (ies)**

“Party (ies)” refers to Authority and Contractor, individually or together.

**Person**

“Person” means any individual, firm, company, association, organization, partnership, corporation, trust, joint venture, the United States, the State, the County, towns, cities, or special purpose districts.

**Processing Facility**

“Processing Facility” means either of the facilities, including the building, equipment, real and personal property where Recyclable Materials are processed, sorted or separated for the purpose of recovering Recyclable Materials for the beneficial re-use or sale to third parties. Processing Facilities are located at 351 Franklin Avenue, Willits, CA (Willits Facility) and 4260 N. State Street, Ukiah, CA (PRS Facility).

**Quarter, Quarterly**

“Quarter” or “Quarterly” means every three month period coinciding with the calendar year quarters January 1 – March 31, April 1 – June 30, July 1 – September 30, and October 1 – December 31.

**Receiving Facility**

“Receiving Facility” means either of the facilities, including building, equipment, real and personal property where Recyclable Materials are delivered by Member Agencies for storing prior to the transportation to either of Contractor’s Processing Facilities. Contractor’s Receiving Facility is located at or near 4700 West End Road, Arcata, CA and Authority’s Receiving Facility is located at 1059 W. Hawthorne Street, Eureka, CA, or any other facility location approved by the Authority’s Executive Director and Contractor.

**Recyclable Materials**

"Recyclable Materials" means the following Dual-Stream or Single-Stream Recyclable Materials: newspaper (including inserts, coupons, and store advertisements); mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, paperboard, paper egg cartons, telephone books, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, cereal and other similar food boxes); chipboard; corrugated cardboard; paper milk cartons; glass containers of any color (including brown, blue, clear, and green glass containers); aluminum 6 (including food and beverage containers and foil); small pieces of scrap metal weighing less than 10 pounds (excluding chain, cable, wire, banding, hand tools, and automotive parts); steel, tin or bi-metal containers; plastic containers (i.e., all plastic containers stamped with the Society for the Plastics Industry (SPI) code #1 through #7), and plastics that are not stamped but clearly can be identified as PET, HDPE, and PP); or, as specified by the Authority, but excluding in every case Hazardous Materials and Residual Waste.

**Related Party Entity**

"Related Party Entity" means any Affiliate which has a financial transaction with Contractor pertaining to this Agreement.

**Residual Waste:**

"Residual waste" means solid waste and other materials that cannot be recycled and must be disposed of at a landfill.

**Revenue Sharing**

"Revenue Sharing" means the per Ton fee paid by Contractor to the Authority for Recyclable Materials when the weighted average Composite Market Value exceeds \$167.69 per Ton.

**Single-Stream Recyclable Materials**

"Single-Stream Recyclable Materials" shall mean Recyclable Materials which have been commingled by the Generator and placed in a designated container for the purposes of collection.

**Ton (or Tonnage)**

"Ton (or Tonnage)" means a unit of measure for weight equivalent to 2,000 pounds where each pound contains 16 ounces.

**Tonnage Fee**

"Tonnage Fee" means the per Ton fee paid by Contractor to the Authority for Recyclable Materials.



**Exhibit B - SCHEDULE OF COMPENSATION****COMPOSITE MARKET VALUE  
FOR THE PERIOD 4-1-11 TO 6-30-11**

<u>Composition</u>	<u>Tonnage</u>	<u>Commodity</u>	<u>Scrap Value/Ton</u>	<u>CRV/Ton</u>	<u>Weighted Value/Ton</u>
15.86%	1,110	OCC	\$130.00		\$20.62
45.19%	3,163	Mixed Paper	100.00		45.19
1.09%	76	HDPE Color	390.00	120.00	5.56
1.07%	75	HDPE Natural	580.00	120.00	7.49
1.94%	136	PET	600.00	1,160.00	34.14
2.30%	161	Rigid Plastics	40.00		0.92
2.38%	167	Tin	127.00		3.02
24.97%	1,748	Glass 3 Mix	(40.00)	78.00	9.49
1.20%	84	Alum. Cans	1,055.00	2,700.00	45.06
4.00%	280	Residuals	(95.00)		(3.80)
100.00%	7,000	Total Composite Market Value Per Ton			<u>\$167.69</u>

**Notes**

- 1 Scrap value is FOB Willits MRF
- 2 Market Value includes California Refund Value (CRV) factor per ton for each eligible commodity
- 3 Tonnage based on 7,000 tons per year
- 4 Weighted Value/Ton is Scrap Value/Ton + CRV/Ton, weighted by the percentage of each commodity in the total stream
- 5 Residuals include \$70.33 disposal fee + HWMA surcharge of \$24.67







## Exhibit D – EXAMPLE OF REVENUE SHARING

### HWMA Revenue Share

Tier	CMV	Tier CMV Cap	Base Fee or % of Tier Differences
Tier 0	\$167.69 & Below	\$ 167.69	Base Fee of \$8.00
Tier 1	\$167.69 to \$200	\$ 200.00	Plus 5.00% of CMV between \$167.69 and \$200
Tier 2	\$200 to \$280	\$ 280.00	Plus 10.00% of CMV between \$200 to and \$280
Tier 3	\$280 & Above		Plus 15.00% of CMV above \$280

### Revenue Share Example Breakdown

Example CMV Price	Tier	Base or CMV Difference	Tier %	Revenue Share to HWMA
\$ 297.07		Up to		
	Tier 0	\$167.69	Base Fee	\$8.00
	Tier 1	\$ 32.31	5%	\$ 1.62
	Tier 2	\$ 80.00	10%	\$ 8.00
	Tier 3	\$ 17.07	15%	\$ 2.56
Total Revenue Share per Ton to HWMA				\$ 20.18

\*CMV is Composite Market Value

**Exhibit E – MEMORANDUM OF UNDERSTANDING BETWEEN THE  
HUMBOLDT WASTE MANAGEMENT AUTHORITY AND CERTAIN OF ITS  
MEMBER AGENCIES TO PARTICIPATE IN A RECYCLABLE MATERIALS  
PROCESSING CONTRACT**

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE HUMBOLDT WASTE MANAGEMENT AUTHORITY  
AND CERTAIN OF ITS MEMBER AGENCIES TO PARTICIPATE IN A RECYCLABLE  
MATERIALS PROCESSING CONTRACT**

This Memorandum of Understanding is entered into by and between the Humboldt Waste Management Authority (“HWMA”), a joint powers authority, and the undersigned participating member agencies (each, a “Participating Agency”) and is effective this \_\_\_\_\_ day of \_\_\_\_\_ (“Effective Date”).

Recitals

- A. HWMA is a joint powers authority formed by the cities of Arcata, Blue Lake, Eureka, Ferndale, Rio Dell, and the County of Humboldt for purposes of efficient solid waste management.
- B. Based on the interest of some of its member agencies, HWMA solicited proposals for cost-effective recyclable materials processing and is prepared to enter into a contract with Solid Waste of Willits for such services.
- C. HWMA anticipates that said contract with Solid Waste of Willits will contain the following key components:
1. Acceptance of dual-stream or single-stream recyclable materials from franchise haulers at either the HWMA facility (1059 W. Hawthorne Street, Eureka) or a facility located at or near 4700 West End Road, Arcata, CA; or other facilities approved by the HWMA and Contractor for purposes of implementing the Recyclable Materials Processing Contract.
  2. Payment by the contractor for the recyclable materials of at least \$8.00 per ton received;
  3. A requirement that the contractor divert at least 96% of recyclable materials received, with no more than 4% to be disposed of as residual waste; and
  4. A term of five years with a two-year renewal option;
- D. The undersigned HWMA member agencies would like to participate in the HWMA contract with Solid Waste of Willits for recyclable materials processing.

**NOW THEREFORE**, based on the terms recited above, the parties enter into this memorandum of understanding.

1. Recyclable Materials Processing Contract. HWMA shall enter into a contract for recyclable materials loading, transportation, processing and marketing services with

Solid Waste of Willits ("Contractor") with basic terms as outlined above ("Recyclable Materials Processing Contract").

2. Recyclable Materials Flow Control. For the term of the Recyclable Materials Processing Contract, each Participating Agency agrees to direct its franchise collection hauler to deliver all recyclable materials it collects under agreement with the Participating Agency to either the HWMA transfer facility located at 1059 W. Hawthorne Street, Eureka, or a facility under Contractor's control located at or near 4700 West End Road Arcata, CA for receipt by Contractor, or other facilities approved by the HWMA and Contractor for purposes of implementing the Recyclable Materials Processing Contract.

It is understood that the County of Humboldt has multiple franchise collection agreements with varying collection requirements and will direct only certain of its franchise haulers to deliver recyclable materials to an appropriate facility for processing under the Recyclable Materials Processing Contract.

3. Reuse in Value Added Product. Agencies may request that HWMA divert specified recyclable materials for reuse in a value added, local product.
4. Reporting. HWMA will provide quarterly and annual summary reports to each Participating Agency indicating the tonnage of recyclable materials processed for that period from the jurisdiction of each Participating Agency, a statement of revenues received from the Contractor, and any other information concerning contract administration as the Participating Agency should request.
5. Contract Management. HWMA shall manage and administer the Recyclable Materials Processing Contract based on direction from the HWMA Board.
6. Meetings Consultation. HWMA staff agrees to meet no less than once each quarter with Participating Agency staff to discuss the ongoing management of the Recyclable Materials Processing Contract.
7. Revenue Distribution. Revenue received by HWMA from the Contractor for the purchase of recyclable materials shall be disbursed to each Participating Agency quarterly on the following basis:
  - a. HWMA shall retain 10% of the \$8.00/ton base revenue for contract administration;
  - b. Any revenue received in excess of the \$8.00/ton base revenue will be distributed to each Participating Agency on a prorated tonnage basis.
8. Education. The HWMA and Participating Agencies shall undertake coordinated educational and out reach activities to assist the Contractor in achieving a diversion rate of 96% of all recyclable materials received. The HWMA and Participating Agencies will prepare and fund an annual education campaign, including periodic collection route audits to identify excessive residuals in the recycling stream.
9. Additional Participation. HWMA member agencies not initially participating in this MOU shall be permitted to enter into this MOU and thereby participate in the

Recyclable Materials Processing Contract subject to modified terms and conditions, if any, acceptable to both the HWMA Board of Directors, and Contractor.

10. Third Party Beneficiaries. Participating Member Agencies are not considered third party beneficiaries under the Recyclable Materials Processing Contract.
11. Indemnity. Pursuant to the HWMA Joint Powers Authority Agreement, the HWMA shall indemnify each Participating Agency for any defense to claims, as well as cost of any judgments imposed for claims resulting from actions by the HWMA in relation to its management and implementation of the Recyclable Materials Processing Contract.
12. Counterparts. This MOU may be executed in separate counterparts, and all counterparts, when signed, shall constitute an enforceable agreement.
13. Humboldt County Nuclear Free Ordinance Compliance. The Contractor has certified to the HWMA that it is not a Nuclear Weapons Contractor, in that it does not knowingly or intentionally engage in the research, development, production or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the County of Humboldt Nuclear Free Humboldt County Ordinance. The Contractor has agreed to notify HWMA immediately if it becomes a Nuclear Weapons Contractor, as defined above, and the HWMA retains the authority to immediately terminate the Recyclable Materials Processing Contract if it determines that the Contractor's certification is false or if the Contractor becomes a Nuclear Weapons Contractor.

**WHEREFORE**, the governing bodies of each of the parties below has authorized and approved this Memorandum of Understanding on the date stated below.

*(Signatures follow on next page)*



**HUMBOLDT WASTE  
MANAGEMENT AUTHORITY**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Sherman Schapiro, Board Chair

Attested to by:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Executive Director

**CITY OF ARCATA**

Dated: \_\_\_\_\_

\_\_\_\_\_  
By: Its Mayor

Attested to by:

Dated: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

**CITY OF BLUE LAKE**

Dated: \_\_\_\_\_

\_\_\_\_\_  
By: Its Mayor

Attested to by:

Dated: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

**CITY OF EUREKA**

Dated: \_\_\_\_\_

\_\_\_\_\_  
By: Its Mayor

Attested to by:

Dated: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

**COUNTY OF HUMBOLDT**

Dated: \_\_\_\_\_

\_\_\_\_\_  
By: Its Board Chair

Attested to by:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Board

**Exhibit F – NOTICE OF COMMENCEMENT DATE**

**NOTICE TO COMMENCE PROVIDING SERVICES**

**PURSUANT TO THAT AGREEMENT FOR  
RECYCLABLE MATERIALS LOADING, TRANSPORTATION, PROCESSING  
AND MARKETING SERVICES  
BETWEEN SOLID WASTES OF WILLITS, INC AND  
HUMBOLDT WASTE MANAGEMENT AUTHORITY**

The Humboldt Waste Management Authority (“HWMA”) through its Executive Director has determined that Solid Waste of Willits, Inc. (“Contractor”) has satisfied the requirements of insurance, performance bonding and payment of procurement consulting fees stated in the *Agreement for Recyclable Materials Loading, Transportation, Processing And Marketing Services Between Solid Wastes Of Willits, Inc and Humboldt Waste Management Authority*.

The Parties hereby agree to the commencement of services pursuant to said Agreement on \_\_\_\_\_, 2011 (“Commencement Date”).

Solid Wastes of Willits, Inc.  
PO Box 1425  
Willits, CA 95490  
(Contractor)

Humboldt Waste Management Authority  
1059 West Hawthorne Street  
Eureka, CA 95501  
(Authority)

By:

By:

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name: Jim Test  
Executive Director

ATTACHMENT 2

***Memorandum of Understanding between Humboldt Waste  
Management Authority and Certain of its Member Agencies to  
Participate in a Recyclable Materials Processing Contract***

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE HUMBOLDT WASTE MANAGEMENT AUTHORITY  
AND CERTAIN OF ITS MEMBER AGENCIES TO PARTICIPATE IN A  
RECYCLABLE MATERIALS PROCESSING CONTRACT**

This Memorandum of Understanding is entered into by and between the Humboldt Waste Management Authority ("HWMA"), a joint powers authority, and the undersigned participating member agencies (each, a "Participating Agency") and is effective this \_\_\_\_\_ day of \_\_\_\_\_ ("Effective Date").

**Recitals**

A. HWMA is a joint powers authority formed by the cities of Arcata, Blue Lake, Eureka, Ferndale, Rio Dell, and the County of Humboldt for purposes of efficient solid waste management.

B. Based on the interest of some of its member agencies, HWMA solicited proposals for cost-effective recyclable materials processing and is prepared to enter into a contract with Solid Waste of Willits for such services.

C. HWMA anticipates that said contract with Solid Waste of Willits will contain the following key components:

1. Acceptance of dual-stream or single-stream recyclable materials from franchise haulers at either the HWMA facility (1059 W. Hawthorne Street, Eureka) or a facility located at or near 4700 West End Road, Arcata, CA; or other facilities approved by the HWMA and Contractor for purposes of implementing the Recyclable Materials Processing Contract.
2. Payment by the contractor for the recyclable materials of at least \$8.00 per ton received;
3. A requirement that the contractor divert at least 96% of recyclable materials received, with no more than 4% to be disposed of as residual waste; and
4. A term of five years with a two-year renewal option;

D. The undersigned HWMA member agencies would like to participate in the HWMA contract with Solid Waste of Willits for recyclable materials processing.

**NOW THEREFORE**, based on the terms recited above, the parties enter into this memorandum of understanding.

1. Recyclable Materials Processing Contract. HWMA shall enter into a contract for recyclable materials loading, transportation, processing and marketing services with Solid Waste of Willits ("Contractor") with basic terms as outlined above ("Recyclable Materials Processing Contract").

2. Recyclable Materials Flow Control. For the term of the Recyclable Materials Processing Contract, each Participating Agency agrees to direct its franchise collection hauler to deliver all recyclable materials it collects under agreement with the Participating Agency to either the HWMA transfer facility located at 1059 W. Hawthorne Street, Eureka, or a facility under Contractor's control located at or near 4700 West End Road Arcata, CA for receipt by Contractor, or other facilities approved by the HWMA and Contractor for purposes of implementing the Recyclable Materials Processing Contract.

It is understood that the County of Humboldt has multiple franchise collection agreements with varying collection requirements and will direct only certain of its franchise haulers to deliver recyclable materials to an appropriate facility for processing under the Recyclable Materials Processing Contract.

3. Reuse in Value Added Product. Participating Agencies may request that HWMA divert specified recyclable materials for reuse in a value added, local product.
4. Reporting. HWMA will provide quarterly and annual summary reports to each Participating Agency indicating the tonnage of recyclable materials processed for that period from the jurisdiction of each Participating Agency, a statement of revenues received from the Contractor, and any other information concerning contract administration as the Participating Agency should request.
5. Contract Management. HWMA shall manage and administer the Recyclable Materials Processing Contract based on direction from the HWMA Board.
6. Meetings Consultation. HWMA staff agrees to meet no less than once each quarter with Participating Agency staff to discuss the ongoing management of the Recyclable Materials Processing Contract.
7. Revenue Distribution. Revenue received by HWMA from the Contractor for the purchase of recyclable materials shall be disbursed to each Participating Agency quarterly on the following basis:
  - a. HWMA shall retain 10% of the \$8.00/ton base revenue for contract administration;
  - b. Any revenue received in excess of the \$8.00/ton base revenue will be distributed to each Participating Agency on a prorated tonnage basis.
8. Education. The HWMA and Participating Agencies shall undertake coordinated educational and out reach activities to assist the Contractor in achieving a diversion rate of 96% of all recyclable materials received. The HWMA and Participating Agencies will prepare and fund an annual education

campaign, including periodic collection route audits to identify excessive residuals in the recycling stream.

9. Additional Participation. HWMA member agencies not initially participating in this MOU shall be permitted to enter into this MOU and thereby participate in the Recyclable Materials Processing Contract subject to modified terms and conditions, if any, acceptable to both the HWMA Board of Directors, and Contractor.
10. Third Party Beneficiaries. Participating Member Agencies are not considered third party beneficiaries under the Recyclable Materials Processing Contract.
11. Indemnity. Pursuant to the HWMA Joint Powers Authority Agreement, the HWMA shall indemnify each Participating Agency for any defense to claims, as well as cost of any judgments imposed for claims resulting from actions by the HWMA in relation to its management and implementation of the Recyclable Materials Processing Contract.
12. Counterparts. This MOU may be executed in separate counterparts, and all counterparts, when signed, shall constitute an enforceable agreement.
13. Humboldt County Nuclear Free Ordinance Compliance. The Contractor has certified to the HWMA that it is not a Nuclear Weapons Contractor, in that it does not knowingly or intentionally engage in the research, development, production or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the County of Humboldt Nuclear Free Humboldt County Ordinance. The Contractor has agreed to notify HWMA immediately if it becomes a Nuclear Weapons Contractor, as defined above, and the HWMA retains the authority to immediately terminate the Recyclable Materials Processing Contract if it determines that the Contractor's certification is false or if the Contractor becomes a Nuclear Weapons Contractor.

**WHEREFORE,** the governing bodies of each of the parties below has authorized and approved this Memorandum of Understanding on the date stated below.

*(Signatures follow on next page)*

**HUMBOLDT WASTE  
MANAGEMENT AUTHORITY**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Sherman Schapiro, Board Chair

Attested to by:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Executive Director

**CITY OF ARCATA**

Dated: \_\_\_\_\_

\_\_\_\_\_  
By: Its Mayor

Attested to by:

Dated: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

**CITY OF BLUE LAKE**

Dated: \_\_\_\_\_

\_\_\_\_\_  
By: Its Mayor

Attested to by:

Dated: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

**CITY OF EUREKA**

Dated: \_\_\_\_\_

\_\_\_\_\_  
By: Its Mayor

Attested to by:

Dated: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

**COUNTY OF HUMBOLDT**

Dated: \_\_\_\_\_

\_\_\_\_\_  
By: Its Board Chair

Attested to by:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Board

ATTACHMENT I

***Agreement for Recyclable Materials Loading, Transportation,  
Processing and Marketing Services between Solid Waste of  
Willits, Inc. and Humboldt Waste Management Authority***



**AGREEMENT  
FOR  
RECYCLABLE MATERIALS LOADING,  
TRANSPORTATION,  
PROCESSING AND MARKETING SERVICES  
BETWEEN  
SOLID WASTES OF WILLITS, INC  
AND  
HUMBOLDT WASTE MANAGEMENT  
AUTHORITY**

**MAY 2011**

**AGREEMENT WITH**  
**SOLID WASTES OF WILLITS, INC.**  
**FOR RECYCLABLE MATERIALS LOADING, TRANSPORTATION,**  
**PROCESSING AND MARKETING SERVICES**

THIS AGREEMENT is made and entered into on this \_\_\_\_ day of \_\_\_\_\_ 2011, ("Effective Date") by and between the Humboldt Waste Management Authority ("HWMA or "Authority"), a joint powers authority, and Solid Wastes of Willits, Inc. ("Contractor") a California corporation, and is made with reference to the following:

**RECITALS**

1. The State of California, through the California Integrated Waste Management Act of 1989, codified at Public Resources Code §§ 40000 *et seq.* (the "Act"), found and declared that the amount of solid waste generated in California, coupled with diminishing landfill space and potential adverse environmental impacts from landfill disposal, has created a need for state and local agencies to enact and implement an aggressive integrated waste management program.
2. The Act directs the State and local agencies to promote recycling and to maximize the use of feasible source reduction, recycling and composting options in order to reduce the amount of solid waste that must be disposed in landfills.
3. The Authority is a joint powers authority (JPA) organized under the Joint Exercise of Powers Act, Government Code §§ 6500 *et seq.*, by cities and other local government agencies in Humboldt County including Humboldt County, and the cities of Arcata, Blue Lake, Eureka, Ferndale and Rio Dell (individually "Member Agency", or collectively "Member Agencies"), each of which oversees the collection of solid waste and recyclable materials within its jurisdiction.
4. Some of the Member Agencies are implementing new curbside collection recycling operations within each of their jurisdictions through a variety of measures, including the institution of "dual stream" and "single stream" recycling.
5. As a result of these new and expanded recycling programs within several of its Member Agencies, the Authority is seeking the most cost effective and efficient means of processing the recyclable materials for its Member Agencies in the future.
6. The Authority has solicited and received proposals through a competitive procurement process, elected to negotiate with Contractor, and desires to retain Contractor to render services to receive and process Recyclable Materials directed to the Contractor through a Memorandum of Understanding among certain Member Agencies and the Authority substantially similar to the document attached hereto as **Exhibit E**, under the terms and conditions set forth in this Agreement.
7. Contractor owns and operates a recyclable materials processing facility and is in the business of purchasing, processing and marketing of recyclable materials, and therefore possesses the required skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement.

8. Contractor acknowledges that the Authority has relied upon Contractor's representations and Contractor commits to faithfully perform the services required by this Agreement and in accordance with the terms and conditions of this Agreement.

9. Contractor has examined the location of all proposed work, carefully reviewed and evaluated the specifications relative to the type, nature, frequency of work to be performed, is familiar with all conditions relevant to the performance of services, and has committed to perform all required work for the price specified in this Agreement.

**NOW, THEREFORE**, based on the mutual covenants and conditions recited herein and made a material part hereof, the parties agree as follows:

## **ARTICLE 1 DEFINITIONS**

**1.1 Definitions.** Unless the context otherwise requires, capitalized terms used in this Agreement will have the meanings specified in **Exhibit A**.

## **ARTICLE 2 TERM OF AGREEMENT**

**2.1 Initial Term.** Unless earlier terminated in accordance with Article 24 below of this Agreement, the term of this Agreement shall be for a period of five (5) years. The term shall begin on the Effective Date. No later than one (1) year before the end of the term, the Parties shall have the option to negotiate in good faith one two (2) year extension term on mutually agreeable terms and conditions. Any revisions to this Agreement to be considered for the extended term shall be presented in writing to the other party at least one (1) year before the end of the term.

## **ARTICLE 3 OBLIGATIONS OF THE AUTHORITY**

**3.1 Obligations of the Authority.** Authority shall be obligated for the term of this Agreement to allow Contractor to load, transport and process all Recyclable Materials that are delivered to either Contractor's Receiving Facility, or the Authority's Receiving Facility, or any other facility approved by the Authority and Contractor for Contractor to load, transport, separate and process in accordance with this Agreement. For a Loading Fee payable by Contractor, as described in Article 6, Compensation to Authority, the Authority will be responsible for loading Contractor's trailers at Authority's Receiving Facility. Authority is under no obligation regarding the quantity and/or composition of the Recyclable Materials directed to Contractor, including providing Contractor with any minimum or maximum tonnage of Recyclable Materials, and will reasonably cooperate with Contractor to assist Contractor in achieving the Residual Waste requirements of this Agreement. The Authority retains the right to divert specified recyclable materials for reuse in a value added, local product.

## **ARTICLE 4 OBLIGATIONS OF THE CONTRACTOR**

**4.1 Obligations of the Contractor.** In compliance with all terms and conditions of this Agreement and except as specifically provided otherwise herein, and beginning on the

Commencement Date, Contractor shall perform all of the loading, transportation, separation and processing of Recyclable Materials directed to Contractor, including the disposal of Residual Waste included therewith. The Recyclable Materials shall be transported by Contractor, or by trucking subcontractors at Contractor's direction, to either of Contractor's Processing Facilities for the separation and processing. Contractor shall be solely responsible for the management of Recyclable Materials once delivered to any Receiving Facility, and shall also be solely responsible for marketing the Recyclable Materials for beneficial re-use or sale to third parties. Subject to the Revenue Sharing provisions of Article 6, Contractor shall be entitled to retain any and all amounts it receives from the processing of Recyclable Materials.

## ARTICLE 5 LICENSES, FEES, PERMITS AND ASSESSMENTS

**5.1 Licenses, Fees, Permits, and Assessments.** Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the scope of services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, permits or assessments that arise from or are necessary for the Contractor's performance of the serves required by this Agreement, and shall indemnify, defend and hold harmless Authority against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against Authority hereunder.

## ARTICLE 6 COMPENSATION TO AUTHORITY

**6.1 Purchase Price for Recyclable Material.** During the Term of the Agreement, Contractor shall pay the Authority a minimum of \$8.00 per Ton of Recyclable Materials directed to Contractor, subject to adjustment pursuant to Section 6.2 (the "Tonnage Fee").

**6.2 Revenue Sharing of Recyclable Materials Received from Receiving Facility.** Every Quarter following the Commencement Date, the Tonnage Fee shall be adjusted up or down, but not below \$8.00 per Ton, by the following Revenue Sharing plan.

Tier	CMV	Tier CMV Cap	Base Fee or % of Tier Differences
Tier 0	\$167.69 & Below	\$ 167.69	Base Fee of \$8.00
Tier 1	\$167.69 to \$200	\$ 200	Plus 5.00% of CMV between \$167.69 and \$200
Tier 2	\$200 to \$280	\$ 280	Plus 10.00% of CMV between \$200 and \$280
Tier 3	Above \$280		Plus 15.00% of CMV above \$280

The base level for the weighted average Composite Market Value (CMV) shall be \$167.69 per Ton on the Effective Date in accordance with **Exhibit B** hereto. At the end of each Quarter, Contractor shall increase or decrease the weighted average CMV to that previous Quarter's CMV.

For example:

- If the weighted average CMV is \$167.69 or below, Contractor shall pay the Authority a base fee of \$8.00 per Ton,

- When the weighted average CMV is between \$167.69 and \$200, Contractor shall pay the Tier 0 \$8.00 Base Fee up to \$167.69, plus 5% of the weighted average CMV difference between \$167.69 and the Tier 1's CMV cap of \$200.
- When the weighted average CMV is between \$200 and \$280, Contractor shall pay the Tier 0 \$8.00 Base Fee up to \$167.69, plus 5% of the weighted average CMV difference between \$167.69 and the Tier 1's CMV cap of \$200, plus 10% of the weighted average CMV difference between \$200 and the Tier 2's CMV cap of \$280.
- When the weighted average CMV is greater than \$280, Contractor shall pay the Tier 0 \$8.00 Base Fee up to \$167.69, plus 5% of the weighted average CMV difference between \$167.69 and the Tier 1's CMV cap of \$200, plus 10% of the weighted average CMV difference between \$200 and the Tier 2's CMV cap of \$280., plus 15% of Tier 3's weighted average CMV above Tier 2's CMV cap of \$280.

An example of Revenue Sharing per Ton for weighted average Composite Market Value paid by Contractor from the Authority's Receiving Facility is shown in **Exhibit D** attached hereto ("Revenue Sharing" paid per Ton).

**6.3 Procurement Consultant Fees.** Within thirty (30) days of the Effective Date, and prior to the Commencement Date, Contractor shall submit consultant fees charged to the Authority during the competitive procurement process for this Agreement in the amount of \$59,500.

**6.4 Recyclable Material Loading Fee.** Contractor shall pay Authority an all inclusive loading fee of \$3.00 per Ton for each Ton of Recyclable Material loaded into Contractor's trailers at the Authority's Receiving Facility ("Loading Fee").

**6.5 Processing of Payment.** Contractor shall submit payment of the Tonnage Fee and the Loading Fee, offset by an identified Residual Waste credit, if any, as provided in Article 9.1, to Authority on or before the 15<sup>th</sup> day of each month accompanied by a monthly report indicating in detail the Tons of Recyclable Materials received by Contractor from the Participating Member Agencies. Payment shall be deemed made when deposited in the United States mail, first class postage pre-paid, and addressed to Authority as specified in Article 23, below. If the Authority disputes the amount of payment, it may retain the undisputed amount without compromising its dispute and provide notice to Contractor of the dispute within ten (10) days after receipt of the payment, together with any request for additional information, identified with reasonable specificity. Within ten (10) days of receiving the Authority's notice of dispute, Contractor will respond and supply any requested information and/or additional payment. If Contractor does not respond within those ten (10) days, it will be deemed to concur with Authority, and make immediate payment in full. If Authority disagrees with Contractor's response and the Parties cannot reach agreement during a fifteen (15) day period immediately following Contractor's response, either party may submit the matter to dispute resolution in accordance with the procedures set forth in Article 20 below.

## **ARTICLE 7**

### **(INTENTIONALLY LEFT BLANK)**